

State of Iowa

2005

ACTS AND JOINT RESOLUTIONS

(Session Laws)

Enacted at the

2005 REGULAR SESSION

of the

Eighty-First General Assembly

of the

State of Iowa

HELD AT DES MOINES, THE CAPITAL OF THE STATE
IN THE ONE HUNDRED FIFTY-NINTH YEAR OF THE STATE

REGULAR SESSION BEGUN ON THE TENTH DAY OF JANUARY
AND ENDED ON THE TWENTIETH DAY OF MAY, A.D. 2005



Published under the authority of Iowa Code section 2B.10
by the
Legislative Services Agency
GENERAL ASSEMBLY OF IOWA
Des Moines

PREFACE

CERTIFICATION

We, Dennis C. Prouty, Director, Legislative Services Agency, Richard L. Johnson, Legal Services Division Director, Leslie E. W. Hickey, Iowa Code Editor, and Joanne R. Page, Deputy Iowa Code Editor, certify that, to the best of our knowledge, the Acts and Resolutions in this volume have been prepared from the original enrolled Acts and Resolutions on file in the office of the Secretary of State; are correct copies of those Acts and Resolutions; are published under the authority of the statutes of this state; and constitute the Acts and Resolutions of the 2005 Regular Session of the Eighty-first General Assembly of the State of Iowa.

STATUTES AS EVIDENCE

Iowa Code section 622.59 is as follows:

622.59 Printed copies of statutes. Printed copies of the statute laws of this or any other of the United States, or of Congress, or of any foreign government, purporting or proved to have been published under the authority thereof, or proved to be commonly admitted as evidence of the existing laws in the courts of such state or government, shall be admitted in the courts of this state as presumptive evidence of such laws.

EXPLANATORY NOTES

Temporary Code numbers. CODE NUMBERS ASSIGNED TO NEW SECTIONS AND SUBSECTIONS IN THE ACTS ARE TEMPORARY AND MAY BE CHANGED WHEN THE 2005 IOWA CODE SUPPLEMENT IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts in the 2005 Iowa Code Supplement.

Typographic style. The Acts and Resolutions in this volume are printed as they appear on file in the office of the Secretary of State. No editorial corrections have been made. Underlined type indicates new material added to existing statutes; strike-through type indicates deleted material. Italics within an Act indicate material that the Governor has item vetoed. Item vetoed text is also indicated by asterisks at the beginning and ending of the vetoed material. Superscript numbers indicate explanatory footnotes.

Effective and enactment dates. The Acts of the 2005 Regular Session took effect on July 1, 2005, unless otherwise provided. See Iowa Code section 3.7. The date of enactment is the date an Act is approved by the Governor, which is shown at the end of each Act.

State mandates. Iowa Code section 25B.5 requires that for each enacted bill or joint resolution containing a state mandate (defined in section 25B.3), an estimate of additional local revenue expenditures required by the mandate must be filed with the Secretary of State. Section 2B.10(6) states that a notation of the filing of the estimate must be included in the Iowa Acts with the text of the bill or resolution. No enrolled Acts required the filing of the estimate this year.

Resolutions. Concurrent resolutions and Senate and House resolutions are generally not included. See bound Senate and House Journals for adopted resolutions.

Orders for legal publications should be addressed to the Legislative Services Agency, State Capitol, Ground Floor, Des Moines, Iowa 50319. Telephone (515) 281-6766

TABLE OF CONTENTS

	Page
Preface	iii
Certification	
Statutes as Evidence	
Explanatory Notes	
Elective Officers	vii
General Assembly	viii
Judicial Department	xx
Congressional Delegation and District Offices	xxi
Condition of State Treasury	xxiv
Analysis by Chapters	xxv
General and Special Acts	1
Tables	845
Index	877

ELECTIVE OFFICERS

Name and Office	County from which originally chosen
-----------------	--

GOVERNOR

THOMAS J. VILSACK	Henry
Cynthia P. Eisenhauer, Chief of Staff	Polk
Diana Smith, Governor's Scheduler	Polk

LIEUTENANT GOVERNOR

SALLY J. PEDERSON	Polk
N. Dawn Wilson, Deputy Chief of Staff —	Polk
Senior Advisor to Lieutenant Governor	
Judy Jones, Lieutenant Governor's Scheduler	Polk

SECRETARY OF STATE

CHESTER J. CULVER	Polk
Charles Krogmeier, First Deputy	Polk
Joni Klaassen, Deputy of Administration	Polk

AUDITOR OF STATE

DAVID A. VAUDT	Polk
Warren G. Jenkins, Chief Deputy Auditor of State	Polk
Judith A. Vander Linden, Deputy, Administration Division	Polk
Tamera S. Kusian, Deputy, Performance Investigation Division	Polk
Andrew E. Nielsen, Deputy, Financial Audit Division	Polk

TREASURER OF STATE

MICHAEL L. FITZGERALD	Polk
Stefanie G. Devin, Deputy Treasurer	Polk
Karen Austin, Deputy Treasurer	Polk
Steve Larson, Deputy Treasurer	Polk

SECRETARY OF AGRICULTURE

PATTY JUDGE	Monroe
Brent Halling, Deputy Secretary	Dallas
Mary Jane Olney, Director, Market Development and	Polk
Administrative Services Division	
Ronald Rowland, Director, Consumer Protection and	Polk
Animal Health Division	
Kenneth Tow, Director, Soil Conservation Division	Dallas
John Whipple, Director, Plant Management and Technology Division	Warren

ATTORNEY GENERAL

THOMAS J. MILLER	Polk
Tam Ormiston, Deputy Attorney General	Polk
Gordon Allen, Deputy Attorney General	Polk
Julie Pottorff, Deputy Attorney General	Polk
Douglas Marek, Deputy Attorney General	Story
Eric Tabor, Chief of Staff	Jackson

GENERAL ASSEMBLY

“X” means First Extraordinary Session; “XX” means Second Extraordinary Session
 Italicized county in District column denotes home county

SENATORS

<u>Name and Residence</u>	<u>Occupation</u>	<u>Senatorial District</u>	<u>Former Legislative Service</u>
Angelo, Jeff Creston	Media Consultant	48th—Adams, Clarke, ... Decatur, Montgomery, Ringgold, Taylor, <i>Union</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Beall, Daryl Fort Dodge	Journalist	25th—Calhoun, Greene, <i>Webster</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Behn, Jerry Boone	Farmer/Agribusiness	24th—Boone, Dallas	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Black, Dennis H. Grinnell	Conservationist	21st— <i>Jasper</i> , Polk	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Boettger, Nancy J. Harlan	Farmer/Former Educator	29th—Adair, Audubon, .. Cass, Guthrie, Pottawattamie, <i>Shelby</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Bolkcom, Joe Iowa City	.....	39th— <i>Johnson</i>	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Brunkhorst, Bob Waverly	Computer Analyst	9th—Black Hawk, <i>Bremer</i> , Butler, Fayette	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Connolly, Michael Dubuque	Legislator	14th— <i>Dubuque</i>	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Courtney, Thomas G. ... Burlington	Retired	44th— <i>Des Moines</i> , Louisa, Muscatine	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Danielson, Jeff Cedar Falls	Professional Firefighter	10th— <i>Black Hawk</i>	None

<u>Name and Residence</u>	<u>Occupation</u>	<u>Senatorial District</u>	<u>Former Legislative Service</u>
Dearden, Dick L. Des Moines	Retired/Job Developer .. 5th Judicial District	34th— <i>Polk</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Dotzler, William A., Jr. .. Waterloo	Retired/John Deere	11th— <i>Black Hawk</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Dvorsky, Robert E. Coralville	Job Developer—6th	15th— <i>Johnson, Linn</i>	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Fraise, Gene	Farmer	46th— <i>Henry, Lee</i>	71(2nd), 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Gaskill, E. Thurman Corwith	Farmer	6th— <i>Cerro Gordo,</i> <i>Franklin, Hancock,</i> <i>Winnebago, Worth</i>	77(2nd), 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Gronstal, Michael E. Council Bluffs	Democratic Floor Leader	50th— <i>Pottawattamie</i> ...	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Hahn, James F. Muscatine	Property Management ..	40th— <i>Cedar, Johnson, ..</i> <i>Muscatine</i>	74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Hancock, Tom	Retired/United States ... Postal Service	16th— <i>Delaware,</i> <i>Dubuque, Jones</i>	None
Hatch, Jack	Real Estate Developer ..	33rd— <i>Polk</i>	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X

<u>Name and Residence</u>	<u>Occupation</u>	<u>Senatorial District</u>	<u>Former Legislative Service</u>
Horn, Wally E. Cedar Rapids	Legislator	17th— <i>Linn</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Houser, Hubert	Farmer	49th—Fremont, Mills, ... Page, <i>Pottawattamie</i>	75, 76, 77, 78, 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Iverson, Stewart E., Jr. ... Dows	Farmer/Republican Floor Leader	5th—Franklin, Hamilton, Story, Webster, <i>Wright</i>	73(2nd), 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Johnson, David	Dairy Farming	3rd—Clay, Dickinson, ... O'Brien, <i>Osceola</i> , <i>Sioux</i>	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Kettering, Steve	Community Banker	26th—Buena Vista, ... Carroll, Crawford, <i>Sac</i>	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Kibbie, John P. (Jack) ... Emmetsburg	Farmer/Co-president of the Senate	4th—Emmet, Humboldt, Kossuth, <i>Palo Alto</i> , Pocahontas, Webster	59, 60, 60X, 61, 62, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Kreiman, Keith A. Bloomfield	Attorney	47th—Appanoose, Davis, Wapello, Wayne	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Lamberti, Jeff	Attorney/Co-president of the Senate	35th— <i>Polk</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Larson, Charles W., Jr. ... Cedar Rapids	Attorney	19th— <i>Linn</i>	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X

<u>Name and Residence</u>	<u>Occupation</u>	<u>Senatorial District</u>	<u>Former Legislative Service</u>
Lundby, Mary Marion	Legislator	18th—Linn	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
McCoy, Matt Des Moines	Vice President Community Development— Downtown Development Corp.	31st—Polk	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
McKibben, Larry Marshalltown	Lawyer	22nd—Hardin, Marshall	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
McKinley, Paul Chariton	Businessman	36th—Jasper, Lucas, . . . Mahaska, Marion, Monroe	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Miller, David Fairfield	Attorney/Farmer	45th—Jefferson, Johnson, Van Buren, Wapello, Washington	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Mulder, Dave Sioux Center	Retired College Professor	2nd—Lyon, Plymouth, . . Sioux	None
Putney, John Gladbrook	Executive Director Iowa State Fair Blue Ribbon Foundation	20th—Benton, Grundy, . . Iowa, Tama	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Quirmbach, Herman C. Ames	Associate Professor of . . Economics—Iowa State University	23rd—Boone, Story	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Ragan, Amanda Mason City	Executive Director Community Kitchen of North Iowa/ Executive Director Meals on Wheels	7th—Cerro Gordo, Floyd, Howard, Mitchell	79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Rielly, Tom Oskaloosa	Insurance Sales	38th—Iowa, Keokuk, . . . Mahaska, Poweshiek, Tama	None
Schoenjahn, Brian Arlington	Educator	12th—Black Hawk, . . . Buchanan, Clayton, Delaware, Fayette	None
Seng, Joe M., Dr. Davenport	Veterinarian	43rd—Scott	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Seymour, James A. Woodbine	Hospital Administrator/ CEO	28th—Crawford, Harrison, Ida, Monona, Pottawattamie, Woodbury	80(1st), 80(1st)X, 80(2nd), 80(2nd)X

<u>Name and Residence</u>	<u>Occupation</u>	<u>Senatorial District</u>	<u>Former Legislative Service</u>
Shull, Doug Indianola	Retired/Community Service	37th—Dallas, Madison, .. Warren	68, 69, 69X, 69XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Stewart, Roger Preston	Banker/Farmer	13th—Clinton, Dubuque, Jackson	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Tinsman, Maggie Davenport	Social Worker/ Legislator	41st—Scott	73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Ward, Pat West Des Moines	Former Public and Government Relations Executive	30th—Polk	80(2nd), 80(2nd)X
Warnstadt, Steve Sioux City	Legislator/National Guard	1st—Woodbury	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Wieck, Ron Sioux City	Insurance Agent	27th—Cherokee, Plymouth, Woodbury	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Wood, Frank B. Eldridge	High School Associate .. Principal	42nd—Clinton, Scott	None
Zaun, Brad Urbandale	Owner of Zaun's Hardware	32nd—Polk	None
Zieman, Mark Postville	Farmer/Trucking Company Owner	8th—Allamakee, Chickasaw, Howard, Winneshiek	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X

REPRESENTATIVES

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Alons, Dwayne A. Hull	Farmer	4th—Lyon, Sioux	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Anderson, Richard T. Clarinda	Attorney	97th—Fremont, Mills, Page	None
Arnold, Richard D. Russell	Farmer	72nd—Lucas, Mahaska, . . Marion, Monroe	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Baudler, Clel Greenfield	Retired State Trooper/ Farmer	58th—Adair, Audubon, . . Cass, Guthrie	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Bell, Paul A. Newton	Lieutenant—Newton Police Department	41st—Jasper	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Berry, Deborah L. Waterloo	Education Site Coordinator	22nd—Black Hawk	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Boal, Carmine Ankeny	Legislator	70th—Polk	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Bukta, Polly Clinton	Retired Educator	26th—Clinton	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Carroll, Danny Grinnell	Community Relations	75th—Mahaska, Poweshiek	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Chambers, Royd E. Sheldon	Educator/Iowa Air National Guard	5th—Clay, O'Brien, Osceola, Sioux	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Cohon, Dennis M. Burlington	Special Education Teacher	88th—Des Moines	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Dandekar, Swati A. Marion	Community Leader	36th—Linn	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Davitt, Mark Indianola	Communications Consultant	74th—Warren	80(1st), 80(1st)X, 80(2nd), 80(2nd)X

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
De Boef, Betty R. What Cheer	Partner, Farming and ... Wood Grinding Operation	76th—Iowa, <i>Keokuk</i> , Poweshiek, Tama	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Dix, Bill Shell Rock	Farmer	17th—Bremer, <i>Butler</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Dolecheck, Cecil Mount Ayr	Farmer	96th—Adams, Montgomery, <i>Ringgold</i> , Taylor, Union	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Drake, Jack Lewis	Farmer	57th—Cass, <i>Pottawattamie</i> , Shelby	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Eichhorn, George S. Stratford	General Counsel	9th— <i>Hamilton</i> , Webster, Wright	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Elgin, Jeffrey C. Cedar Rapids	Businessman	37th— <i>Linn</i>	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Fallon, Ed Des Moines	State Legislator	66th— <i>Polk</i>	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Foege, Ro Mount Vernon	Retired Social Worker ...	29th—Johnson, <i>Linn</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Ford, Wayne Des Moines	Executive Director Urban Dreams	65th— <i>Polk</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Freeman, Mary Lou Alta	Education	52nd— <i>Buena Vista</i> , Sac	75(2nd), 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Frevert, Marcella R. Emmetsburg	Legislator	7th—Emmet, Kossuth, .. <i>Palo Alto</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Gaskill, Mary Ottumwa	Retired County Auditor ..	93rd— <i>Wapello</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Gipp, Chuck Decorah	Farmer/Majority Leader ..	16th— <i>Allamakee, Winneshiek</i>	74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Granzow, Polly A. Eldora	Farming	44th— <i>Hardin, Marshall</i> ..	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Greiner, Sandra H. Keota	Farmer	89th— <i>Jefferson, Johnson, Washington</i>	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Heaton, Dave Mount Pleasant	Restaurant Owner	91st— <i>Henry, Lee</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Heddens, Lisa K. Ames	Family Support	46th— <i>Boone, Story</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Hoffman, Clarence C. Denison	Insurance	55th— <i>Crawford, Ida, Monona, Woodbury</i>	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Hogg, Robert M. Cedar Rapids	Attorney	38th— <i>Linn</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Horbach, Lance J. Tama	Insurance Agent	40th— <i>Grundy, Tama</i>	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Hunter, Bruce Des Moines	Customer Service	62nd— <i>Polk</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Huseman, Daniel Adair .. Aurelia	Farmer	53rd— <i>Cherokee, Plymouth, Woodbury</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Huser, Geri D. Altoona	Lawyer/Social Worker ..	42nd— <i>Jasper, Polk</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Hutter, Joseph I. Bettendorf	Retired Police Officer ...	82nd— <i>Scott</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Jacobs, Elizabeth (Libby) S. West Des Moines	Community Relations ... Director	60th— <i>Polk</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Jacoby, David (Dave) Coralville	Program Director	30th— <i>Johnson</i>	80(2nd), 80(2nd)X
Jenkins, G. Willard	Engineer	20th— <i>Black Hawk</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Jochum, Pam	Instructor—Northeast Iowa Community College	27th— <i>Dubuque</i>	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Jones, Gerald D. Silver City	Property Management ...	98th— <i>Mills</i> , Pottawattamie	79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Kaufmann, Jeff	Teacher/Livestock	79th— <i>Cedar</i> , <i>Johnson</i> , ... Wilton Operator Muscatine	None
Kressig, Bob	Retired/John Deere	19th— <i>Black Hawk</i>	None
Kuhn, Mark A. Charles City	Family Farmer	14th— <i>Cerro Gordo</i> , <i>Floyd</i> , Mitchell	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Kurtenbach, James M. ... Nevada	Associate Professor	10th— <i>Hamilton</i> , <i>Story</i> ...	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Lalk, David	Farmer/Retired John Westgate Deere Employee	18th— <i>Black Hawk</i> , Bremer, <i>Fayette</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Lensing, Vicki	Funeral Home Owner	78th— <i>Johnson</i>	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Lukan, Steven F. New Vienna	Tire Technician	32nd— <i>Delaware</i> , <i>Dubuque</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Lykam, Jim	Small Business Owner ...	85th— <i>Scott</i>	73, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Maddox, Gene	Lawyer	59th— <i>Polk</i>	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Mascher, Mary	Teacher	77th— <i>Johnson</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
May, Mike	Retired Teacher/Resort .. Spirit Lake Owner	6th— <i>Clay</i> , <i>Dickinson</i>	None

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
McCarthy, Kevin M. Des Moines	Attorney	67th— <i>Polk</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Mertz, Dolores M. Ottosen	.....	8th—Humboldt, <i>Kossuth</i> , Pocahontas, Webster	73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Miller, Helen	Attorney/Arts Educator ..	49th— <i>Webster</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Murphy, Pat	Minority Leader	28th— <i>Dubuque</i>	73(2nd), 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Oldson, Jo .....	.....	61st— <i>Polk</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Olson, Donovan	Distance Education	48th— <i>Boone</i> , Dallas	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Olson, Rick	Attorney	68th— <i>Polk</i>	None
Olson, Steven N. DeWitt	Farmer	83rd— <i>Clinton</i> , Scott	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Paulsen, Kraig	Attorney	35th— <i>Linn</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Petersen, Janet	Marketing	64th— <i>Polk</i>	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Pettengill, Dawn E. Mount Auburn	Retirement and Investor Services	39th— <i>Benton</i> , Iowa	None
Quirk, Brian J. New Hampton	Electrical Contractor	15th— <i>Chickasaw</i> ,	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Raecker, J. Scott	Executive Director—	63rd— <i>Polk</i>	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Rants, Christopher C. Sioux City	Speaker of the House/ Self-employed	54th— <i>Woodbury</i>	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Rasmussen, Daniel J. Independence	Executive Director Land Improvement Contractor Association	23rd— <i>Black Hawk</i> ,	80(1st), 80(1st)X, 80(2nd), 80(2nd)X

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Rayhons, Henry V. Garner	Farmer	11th— <i>Hancock</i> , Winnebago, Worth	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Reasoner, Michael J. Creston	State Legislator	95th— <i>Clarke</i> , Decatur, . . . <i>Union</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Reichert, Nathan Muscatine	Allsteel Customer Support	80th— <i>Muscatine</i>	None
Roberts, Rod Carroll	Development Director— Christian Churches/ Churches of Christ	51st— <i>Carroll</i> , Crawford, Sac	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Sands, Thomas R. Columbus Junction	Banker/Real Estate Appraiser/Farm Owner	87th— <i>Des Moines</i> , <i>Louisa</i> , Muscatine	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Schickel, Bill Mason City	KCMR Radio, General . . . Manager	13th— <i>Cerro Gordo</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Schueller, Thomas J. Maquoketa	Contractor	25th— <i>Clinton</i> , Dubuque, <i>Jackson</i>	None
Shomshor, Paul C., Jr. Council Bluffs	Certified Public Accountant	100th— <i>Pottawattamie</i> . . .	80(2nd), 80(2nd)X
Shoultz, Don Waterloo	. . . . .	21st— <i>Black Hawk</i>	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Smith, Mark Marshalltown	Licensed Independent . . . Social Worker	43rd— <i>Marshall</i>	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Soderberg, Chuck LeMars	Vice President, Planning and Legislative Services—Northwest Iowa Power Cooperative	3rd— <i>Plymouth</i> , Sioux . . .	None
Struyk, Douglas L. Council Bluffs	Small Business Owner/ . . Attorney	99th— <i>Pottawattamie</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Swaim, Kurt Bloomfield	Attorney	94th— <i>Appanoose</i> , Davis, Wayne	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Taylor, Dick Cedar Rapids	Electrician/Project Manager	33rd— <i>Linn</i>	78(2nd), 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Taylor, Todd Cedar Rapids	Union Representative	34th— <i>Linn</i>	76(2nd), 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Thomas, Roger Elkader	Farmer/Paramedic	24th—Clayton, Delaware, Fayette	77, 78, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Tjepkes, David A. Gowrie	Retired State Trooper	50th—Calhoun, Greene, Webster	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Tomenga, F. Walter Johnston	Management Consultant	69th—Polk	None
Tymeson, Jodi S. Winterset	National Guard Brigadier General/Licensed Teacher	73rd—Dallas, Madison, Warren	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Upmeyer, Linda L. Garner	Nurse Practitioner	12th—Cerro Gordo, Franklin, Hancock	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Van Engelenhoven, James L. Pella	Farmer	71st—Jasper, Marion	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Van Fossen, James (Jim) R. Davenport	Retired Police Captain	84th—Scott	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Van Fossen, Jamie Davenport	Economic Development Analyst— MidAmerican Energy	81st—Scott	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Watts, Ralph C. Adel	Engineer/Business Management Retired	47th—Boone, Dallas	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Wendt, Roger F. Sioux City	Retired School Administrator	2nd—Woodbury	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Wessel-Kroeschell, Beth Ames		45th—Story	None
Whitaker, John R. Hillsboro	Family Farmer	90th—Jefferson, Van Buren, Wapello	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Whitead, Wesley Edward Sioux City		1st—Woodbury	77, 78, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Wilderdyke, Paul A. Woodbine	Community Relations	56th—Harrison, Monona, Pottawattamie	79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Winckler, Cindy Lou Davenport	Instructional Facilitator— Davenport Schools	86th—Scott	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Wise, Philip Keokuk	Consultant/Legislator/ Retired Educator	92nd—Lee	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Zirkelbach, Raymond Monticello	Correctional Officer/ Soldier	31st—Dubuque, Jones	None

JUDICIAL DEPARTMENT

JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	Office Address	Term Ending
Louis A. Lavorato, C.J.	Des Moines	December 31, 2012
Jerry L. Larson	Harlan	December 31, 2012
James H. Carter	Cedar Rapids	December 31, 2008
Marsha K. Ternus	Des Moines	December 31, 2010
Mark S. Cady	Fort Dodge	December 31, 2008
Michael J. Streit	Des Moines	December 31, 2010
David S. Wiggins	Des Moines	December 31, 2012

JUDGES OF THE COURT OF APPEALS

(Judges listed according to seniority)

Rosemary Shaw Sackett, C.J.	Spencer	December 31, 2008
Terry L. Huitink	Ireton	December 31, 2008
Gayle Nelson Vogel	Spirit Lake	December 31, 2010
Robert E. Mahan	Ames	December 31, 2010
Van D. Zimmer	Vinton	December 31, 2006
John C. Miller	Burlington	December 31, 2006
Daryl L. Hecht	Sioux City	December 31, 2006
Anu Vaitheswaran	Des Moines	December 31, 2006
Larry J. Eisenhauer	Des Moines	December 31, 2008

CONGRESSIONAL DELEGATION AND DISTRICT OFFICES

UNITED STATES SENATORS

Senator Tom Harkin (D)
731 Hart Senate Office Building
Washington, D.C. 20510-1501
(202) 224-3254

Website address:
<http://harkin.senate.gov>

E-mail address:
Electronic communications
can be made through website

733 Federal Building
210 Walnut Street
Des Moines, Iowa 50309
(515) 284-4574

150 First Avenue, NE
Suite 370
Cedar Rapids, Iowa 52401
(319) 365-4504

1606 Brady Street
Suite 323
Davenport, Iowa 52803
(563) 322-1338

110 Federal Building
320 6th Street
Sioux City, Iowa 51101
(712) 252-1550

315 Federal Building
350 West 6th Street
Dubuque, Iowa 52001
(563) 582-2130

Senator Charles Grassley (R)
135 Hart Senate Office Building
Washington, D.C. 20510-1501
(202) 224-3744

Website address:
<http://grassley.senate.gov>

E-mail address:
chuck_grassley@grassley.senate.gov

721 Federal Building
210 Walnut Street
Des Moines, Iowa 50309
(515) 288-1145

210 Waterloo Building
531 Commercial Street
Waterloo, Iowa 50701
(319) 232-6657

206 Federal Building
101 First Street, SE
Cedar Rapids, Iowa 52401
(319) 363-6832

103 Federal Courthouse Building
320 6th Street
Sioux City, Iowa 51101
(712) 233-1860

131 West 3rd Street
Suite 180
Davenport, Iowa 52801
(563) 322-4331

307 Federal Building
8 South 6th Street
Council Bluffs, Iowa 51501
(712) 322-7103

UNITED STATES REPRESENTATIVES

First District

Congressman Jim Nussle (R)
303 Cannon House Office Bldg.
Washington, D.C. 20515
(202) 225-2911

Website address:
<http://www.nussle.house.gov>

E-mail address:
Electronic communications
can be made through website

712 West Main Street
Manchester, Iowa 52057
(563) 927-5141

3641 Kimball Avenue
Waterloo, Iowa 50702
(319) 235-1109

2255 John F. Kennedy Road
Dubuque, Iowa 52002
(563) 557-7740

209 West 4th Street
Davenport, Iowa 52801
(563) 326-1841

Toll-Free:
(800) 927-5212

Second District

Congressman James A. Leach (R)
2186 Rayburn House Office Bldg.
Washington, D.C. 20515-1501
(202) 225-6576
Fax (202) 226-1278

Website address:
<http://www.house.gov/leach>

E-mail address:
Electronic communications
can be made through website

214 Jefferson Street
Burlington, Iowa 52601-5215
(319) 754-1106
Fax (319) 754-1107

125 South Dubuque Street
Iowa City, Iowa 52240-4003
(319) 351-0789
Fax (319) 351-5789

129 12th Street, SE
Cedar Rapids, Iowa 52403-4074
(319) 363-4773
Fax (319) 363-5008

105 East 3rd Street
Room 201
Ottumwa, Iowa 52501-2904
(641) 684-4024
Fax (641) 684-1843

UNITED STATES REPRESENTATIVES — Continued

Third District

Congressman Leonard Boswell (D)
1427 Longworth House Office Bldg.
Washington, D.C. 20515
(202) 225-3806
Fax (202) 225-5608

Website address:
<http://www.house.gov/boswell>

E-mail address:
rep.boswell.ia03@mail.house.gov

300 East Locust Street, Suite 320
Des Moines, Iowa 50309
(515) 282-1909
Fax (515) 282-1785

Toll-Free:
(888) 432-1984

Fourth District

Congressman Tom Latham (R)
2447 Rayburn House Office Bldg.
Washington, D.C. 20515
(202) 225-5476
Fax (202) 225-3301

Website address:
<http://www.house.gov/latham>

E-mail address:
tom.latham@mail.house.gov

1421 South Bell Avenue, Suite 108A
Ames, Iowa 50010
(515) 232-2885
Fax (515) 232-2844

812 Highway 18 East
P.O. Box 532
Clear Lake, Iowa 50428
(641) 357-5225
Fax (641) 357-5226

1426 Central Avenue, Suite A
Fort Dodge, Iowa 50501
(515) 573-2738
Fax (515) 576-7141

Fifth District

Congressman Steve King (R)
1432 Longworth House Office Bldg.
Washington, D.C. 20515
(202) 225-4426
Fax (202) 225-3193

Website address:
<http://www.house.gov/steveking>

E-mail address:
steve.king@mail.house.gov

40 Pearl Street
Council Bluffs, Iowa 51503
(712) 325-1404
Fax (712) 325-1405

P.O. Box 601
Creston, Iowa 50801
(641) 782-2495
Fax (641) 782-2497

526 Nebraska Street
Sioux City, Iowa 51101
(712) 224-4692
Fax (712) 224-4693

P.O. Box 650
Spencer, Iowa 51301
(712) 580-7754
Fax (712) 580-3354

607 Lake Avenue
Storm Lake, Iowa 50588
(712) 732-4197
Fax (712) 732-4217

CONDITION OF STATE TREASURY

June 30, 2004

	Balance July 1, 2003	Total Receipts and Transfers	Total Available	Total Disbursements and Transfers	Balance June 30, 2004
General Fund	\$ 371,100,052	\$ 8,960,960,637	\$ 9,332,060,689	\$ 8,852,185,119	\$ 479,875,570
Special Revenue Fund	982,029,264	2,823,863,737	3,805,893,001	2,716,111,305	1,089,781,696
Capitol Projects Fund	592,223	17,809,155	18,401,378	15,821,671	2,579,707
Debt Service Fund	10,004,531	8,222,184	18,226,715	8,131,770	10,094,945
Enterprise Fund	26,884,438	415,355,868	442,240,306	406,963,851	35,276,455
Internal Service Fund	55,324,150	291,627,187	346,951,337	295,558,254	51,393,083
Expendable Trust Fund	24,623,707	456,513,333	481,137,040	441,226,048	39,910,992
Nonexpendable Trust Fund	8,306,677	491,007	8,797,684	0	8,797,684
Pension Fund	14,456,014,648	1,487,913,879	15,943,928,527	876,977,335	15,066,951,192
Trust and Agency Fund	153,942,899	3,868,135,256	4,022,078,155	3,856,145,000	165,933,155
Totals	<u>\$16,088,822,589</u>	<u>\$18,330,892,243</u>	<u>\$34,419,714,832</u>	<u>\$17,469,120,353</u>	<u>\$16,950,594,479</u>

Balance July 1, 2003	\$16,088,822,589
Receipts and Transfers	18,330,892,243
Total Available	34,419,714,832
Disbursements and Transfers	17,469,120,353
Balance June 30, 2004	\$16,950,594,479

DEPARTMENT OF ADMINISTRATIVE SERVICES STATE ACCOUNTING ENTERPRISE

June 7, 2005

ANALYSIS BY CHAPTERS

2005 REGULAR SESSION

For Conversion Tables of Senate and House Files and Joint Resolutions to chapters of the 2005 Acts, Regular Session, see page 846

CH.	FILE	TITLE
1	SF 36	School finance — allowable growth
2	HF 102	State income taxes — depreciation and expensing allowances
3	SF 113	Nonsubstantive Code corrections
4	HF 175	Business entity names
5	HF 197	Inheritance tax — joint account funds — withdrawal notice
6	HF 190	Child death review team duties
7	SF 114	Iowa capital investment board tax credit certificates
8	HF 216	Motor vehicles and related regulation
9	HF 277	Communications services regulation
10	HF 418	Anatomic pathology services — billing
11	SF 139	Negotiable instruments — enforcement and liabilities
12	SF 141	Aboveground petroleum storage tanks — upgrade or closure costs
13	HF 141	Commercial establishments serving alcoholic beverages — security — employee training
14	HF 281	Inheritance tax fraud and transfers to minors
15	SF 169	Regulation of amphetamine and methamphetamine precursors
16	SF 205	Life science enterprises — agricultural land
17	SF 264	Dual party relay service funding
18	SF 270	Identity theft
19	HF 227	Substantive Code corrections
20	HF 591	Transportation — administration, funding, and miscellaneous regulations
21	HF 642	Regulation of agricultural seed
22	SF 74	Financial institution or insurer names, trademarks, logos, or symbols — prohibited use
23	SF 215	Civil rights commission — service and delivery of complaints and orders
24	HF 186	Internal Revenue Code references and income tax revisions
25	HF 187	Utility replacement tax task force
26	HF 332	Title guaranty program — mortgage releases — abstractor certifications
27	HF 373	Equipment dealerships — sale or transfer
28	HF 131	Dental assistants — education and training
29	HF 291	Water quality protection fund — accounts and fees
30	HF 370	Iowa finance authority — qualified residential rental project bonds
31	HF 399	Solid waste management and disposal
32	HF 581	Interstate natural gas pipelines
33	HF 602	Household hazardous waste — collection, transportation, and disposal
34	SF 265	Powers and duties of county treasurers — taxes, fees, and evidence of ownership
35	SF 283	Department of public safety — miscellaneous provisions
36	SF 320	Real estate broker and salesperson licensing — criminal history checks
37	SF 339	Regional transit districts
38	SF 379	Probate — miscellaneous revisions — trusts
39	HF 252	Weed control
40	HF 375	Real estate brokerage agreements
41	HF 469	Real estate commission membership
42	HF 478	Iowa commission on volunteer service

CH.	FILE	TITLE
43	HF 580	Iowa egg council — miscellaneous changes
44	SF 260	Consumer credit code — debt collection practices — financial institution affiliates
45	SF 304	Elder services, care facilities, and programs
46	SF 335	Unemployment compensation — dependent adult abuse information
47	HF 613	Swimming pools and spas — hot water heating boiler regulation
48	HF 641	Regulation of excursion gambling boats — fees
49	HF 726	Operating while intoxicated — chemical testing of persons incapable of consent or refusal — certification
50	HF 760	Dependent adults and dependent adult abuse — protective services
51	HF 768	Community public water supply permits — notice of issuance or modification
52	HF 776	Administration of governmental financial and information technology activities
53	HF 784	Advanced practice registered nurse compact
54	SF 340	Regulation of motor vehicles and operating privileges — fines, fees, and penalties
55	SF 352	Child advocacy and foster care review — tort liability and confidentiality
56	SF 363	Regulation of business opportunity solicitations
57	SF 365	Enterprise zone certification — application deadline
58	SF 370	Criminal law and procedure — duration of no-contact orders
59	HF 276	Registration of postsecondary schools — Iowa coordinating council for post-high school education comments — open meetings
60	HF 585	Assisted living programs
61	HF 587	Regulation of adult day services
62	HF 710	Regulation of elder group homes
63	HF 717	Regulation of traffic signal preemption devices
64	HF 757	Abandoned vehicles — removal and disposition procedures
65	HF 771	Mental competency hearings — criminal defendants
66	SF 57	City zoning boards of adjustment — membership
67	SF 321	Inmate labor fund — use of moneys
68	SF 323	Uniform mediation Act
69	SF 330	Domestic relations, rights, and support obligations
70	SF 360	Entities and transactions subject to insurance division regulation — miscellaneous revisions
71	HF 310	Sales and use tax — toy sales to nonprofit organizations
72	HF 312	Regulation of elections and political campaigns
73	HF 476	Sale and purchase of ammonium nitrate
74	HF 607	Emergency fire and medical services — townships
75	HF 748	State payroll deductions — tuition
76	HF 253	Regulation of government ethics and lobbying
77	HF 313	Sales and use tax — industrial processing exemption study
78	HF 398	Registration of postsecondary schools — colleges and universities established by city ordinance
79	HF 423	Student participation in extracurricular interscholastic activities
80	HF 532	Department of cultural affairs — administrative revisions
81	HF 645	Lotteries
82	HF 700	Soybean promotion, research, and marketing — association — assessment
83	HF 737	Registration and licensing of mortgage bankers and brokers
84	HF 745	Theft — leased or rented personal property
85	HF 746	Rural water and wastewater services
86	HF 754	Homestead exemption — waiver affecting agricultural property
87	HF 777	Contagious or infectious diseases — persons confined to jail or in peace officer custody

CH.	FILE	TITLE
88	HF 781	Direct care worker task force
89	HF 789	Public health — miscellaneous changes
90	HF 839	Technology governance board
91	HF 420	Health insurance — biologically based mental illnesses
92	SF 313	Railroad crossing and school bus warning device violations — traffic citations
93	HF 339	Regulation of cigarette and tobacco product retailers
94	HF 614	Unlawful transmission, installation, and use of computer software
95	HF 616	Decategorization of child welfare and juvenile justice funding projects
96	HF 617	Medical assistance program — assisted living services
97	HF 724	Prescription drug donation repository
98	HF 764	Unemployment compensation — sale or transfer of organization, trade, or business — employer contribution rates
99	HF 772	Open meetings and open records violations
100	HF 814	State procurement procedures — notice of bidding opportunities
101	SF 210	Real estate auctions — brokerage and closing services providers
102	SF 375	Uniform environmental covenants Act
103	SF 403	Public records requests — procedures — fees
104	SF 405	Registration and regulation of interior designers
105	HF 275	Purchase, possession, or control of alcohol by persons under legal age
106	HF 646	Regulation of gambling — miscellaneous provisions
107	HF 683	Legal representation for indigent persons
108	HF 708	Rural improvement zones — establishment
109	HF 797	National historic landmarks and certified cultural and entertainment districts — promotional program
110	HF 840	State sales tax rebate for automobile racetrack facility
111	SF 78	Taxation of property annexed by cities
112	SF 350	Child support — miscellaneous provisions
113	SF 395	Grape and wine industry promotion
114	SF 404	County mental health, mental retardation, and developmental disabilities expenditures — state funding
115	HF 374	Veterans affairs
116	HF 438	Soil and water conservation districts — assessments and taxes
117	HF 538	Children with mental health, behavioral, or emotional disorders
118	HF 620	Volunteer health care provider program
119	HF 716	State security and emergency management
120	SF 272	Medical assistance advisory council
121	SF 343	Official audits, reports, registries, and agreements
122	HF 589	Taxation of nursing facility property
123	HF 610	Regulation of electronic mail and internet drug sales
124	HF 753	Safety-related information concerning children — dissemination
125	HF 774	Board of supervisors membership — petition and vote requirements
126	HF 786	Businesses and activities in health care facilities
127	HF 801	Individual income tax computation — human organ donation expenses
128	HF 836	Regulation of cemeteries
129	HF 837	State government finance initiatives
130	HF 857	Enterprise zones — eligible housing businesses
131	HF 870	Motor vehicle financial responsibility — special mobile equipment
132	HF 685	Fingerprinting of children
133	HF 718	Motor vehicle registration fee refunds — former residents
134	HF 856	Sales and use tax — low-income housing projects of nonprofit organizations
135	HF 859	Cooperatives
136	HF 805	Agricultural production

CH.	FILE	TITLE
137	HF 828	Regulation of natural resources and watercraft
138	HF 879	Regulation of snowmobiles
139	SF 206	Regulation of deer populations and hunting licenses
140	SF 413	Taxes, tax policy, and administration
141	HF 440	Motor vehicle fuel theft — motor vehicle operating privileges
142	HF 674	Secondary and farm-to-market roads
143	HF 682	Criminal justice — miscellaneous provisions
144	HF 739	Education technology
145	SF 176	Midwestern higher education compact
146	SF 389	Soy-based cutting tool oil income tax credit
147	HF 742	Iowa early intervention block grant program
148	HF 761	Early care, child care, education, health, and human services assistance
149	SF 245	Student achievement and secondary school curricula
150	HF 868	Development and oversight of state and local economic, cultural, research, and transportation-related resources
151	SF 201	Veterinary emergency preparedness and response services
152	HF 222	Election of township officers
153	HF 834	Commercial cleaning of toilet units and private sewage disposal facilities
154	HF 858	Work-based learning intermediary network program
155	HF 883	Legalizing act — Cedar Rapids, College, and Linn-Mar community school districts' boundaries
156	HF 821	Prescription drug assistance clearinghouse program
157	HF 831	Investments in qualifying businesses and community-based seed capital funds — tax credits
158	HF 619	Criminal justice — DNA sampling, sex offenders and offenses, and victim rights
159	SF 200	Agriculture regulation — veterinary medicine, motor vehicle fuel dealers, and watershed improvement
160	SF 390	Renewable energy — tax credits
161	SF 75	Active duty military service — state financial assistance
162	SF 71	Environment first fund — soil and water conservation districts — administrative expenses
163	HF 466	Appropriations — transportation
164	SF 346	Federal block grant appropriations
165	HF 826	Vehicular traffic speed limits and allocation of fines, fees, penalties, and other revenue
166	HF 819	Medical assistance — long-term care asset disregard program
167	HF 841	Health care and health care finance
168	SF 342	Miscellaneous supplemental appropriations and employment regulation
169	HF 816	Appropriations — education
170	HF 809	Appropriations — economic development
171	HF 807	Appropriations — judicial branch
172	HF 808	Appropriations — agriculture and natural resources
173	HF 810	Appropriations — administration and regulation
174	HF 811	Appropriations — justice system
175	HF 825	Appropriations — health and human services
176	HF 862	Healthy Iowans tobacco trust and tobacco settlement trust fund — appropriations
177	HF 881	Compensation for public employees and additional provisions
178	HF 875	Appropriations — infrastructure and capital projects — loans, grants, and bonding
179	HF 882	State and local government financial and regulatory matters — appropriations and miscellaneous changes
180	SJR 6	World Food Prize awards ceremony
181	SJR 7	Annual meeting of National Governors Association

2005 Regular Session

of the

Eighty-First General Assembly

of the

State of Iowa

CHAPTER 1

SCHOOL FINANCE — ALLOWABLE GROWTH

S.F. 36

AN ACT providing for the establishment of the state percent of growth for purposes of the state school foundation program and providing an applicability date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 257.8, subsection 1, Code 2005, is amended to read as follows:

1. STATE PERCENT OF GROWTH. ~~The state percent of growth for the budget year beginning July 1, 2004, is two percent.~~ The state percent of growth for the budget year beginning July 1, 2005, is four percent. The state percent of growth for the budget year beginning July 1, 2006, is four percent. The state percent of growth for each subsequent budget year shall be established by statute which shall be enacted within thirty days of the submission in the year preceding the base year of the governor's budget under section 8.21. The establishment of the state percent of growth for a budget year shall be the only subject matter of the bill which enacts the state percent of growth for a budget year.

Sec. 2. APPLICABILITY. This Act is applicable for computing state aid under the state school foundation program for the school budget year beginning July 1, 2006.

Approved February 2, 2005

CHAPTER 2**STATE INCOME TAXES —
DEPRECIATION AND EXPENSING ALLOWANCES***H.F. 102*

AN ACT relating to state income taxes by authorizing individuals, corporations, and financial institutions to elect to take the additional first-year depreciation allowance and the increased expensing allowance and to allow the additional first-year depreciation allowance and the increased expensing allowance which were deductible for a tax year for which a tax return was filed prior to a certain date to be deducted on the return filed for the subsequent tax year and including an effective date provision and a retroactive applicability date provision.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 422.7, subsection 39, paragraph b, Code 2005, is amended to read as follows:

b. The A taxpayer may elect to apply the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code, as enacted by Pub. L. No. 108-27, shall apply in computing net income for state tax purposes, for qualified property acquired after May 5, 2003, and before January 1, 2005. If the taxpayer elects to take the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code for state tax purposes, the deduction may be taken on amended state tax returns, if necessary. If the taxpayer does not elect to take the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code for state tax purposes, the following adjustment shall be made:

(1) Add the total amount of depreciation taken on all property for which the election under section 168(k)(4) of the Internal Revenue Code was made for the tax year.

(2) Subtract an amount equal to depreciation allowed on such property for the tax year using the modified accelerated cost recovery system depreciation method applicable under section 168 of the Internal Revenue Code without regard to section 168(k)(4).

(3) Any other adjustments to gains or losses to reflect the adjustments made in subparagraphs (1) and (2) pursuant to rules adopted by the director.

Sec. 2. Section 422.7, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 44. A taxpayer may elect not to take the increased expensing allowance under section 179 of the Internal Revenue Code, as amended by Pub. L. No. 108-27, section 202, in computing state tax purposes. If the taxpayer does not take the increased expensing allowance under section 179 of the Internal Revenue Code for state tax purposes, the following adjustments shall be made:

a. Add the total amount of expense deduction taken on section 179 property for federal tax purposes under section 179 of the Internal Revenue Code.

b. Subtract the amount of expense deduction on section 179 property allowable for federal tax purposes under section 179 of the Internal Revenue Code prior to enactment of Pub. L. No. 108-27, section 202.

c. Any other adjustments to gains and losses to the adjustments made in paragraphs “a” and “b” pursuant to rules adopted by the director.

Sec. 3. Section 422.35, subsection 19, paragraph b, Code 2005, is amended to read as follows:

b. The A taxpayer may elect to apply the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code, as enacted by Pub. L. No. 108-27, shall apply in computing net income for state tax purposes, for qualified property acquired after

May 5, 2003, and before January 1, 2005. If the taxpayer elects to take the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code for state tax purposes, the deduction may be taken on amended state tax returns, if necessary. If the taxpayer does not elect to take the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code for state tax purposes, the following adjustment shall be made:

(1) Add the total amount of depreciation taken on all property for which the election under section 168(k)(4) of the Internal Revenue Code was made for the tax year.

(2) Subtract an amount equal to depreciation allowed on such property for the tax year using the modified accelerated cost recovery system depreciation method applicable under section 168 of the Internal Revenue Code without regard to section 168(k)(4).

(3) Any other adjustments to gains or losses to reflect the adjustments made in subparagraphs (1) and (2) pursuant to rules adopted by the director.

Sec. 4. Section 422.35, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 20. A taxpayer may elect not to take the increased expensing allowance under section 179 of the Internal Revenue Code, as amended by Pub. L. No. 108-27, section 202, in computing state tax purposes. If the taxpayer does not take the increased expensing allowance under section 179 of the Internal Revenue Code for state tax purposes, the following adjustments shall be made:

a. Add the total amount of expense deduction taken on section 179 property for federal tax purposes under section 179 of the Internal Revenue Code.

b. Subtract the amount of expense deduction on section 179 property allowable for federal tax purposes under section 179 of the Internal Revenue Code prior to enactment of Pub. L. No. 108-27, section 202.

c. Any other adjustments to gains and losses to the adjustments made in paragraphs "a" and "b" pursuant to rules adopted by the director.

Sec. 5. SPECIAL FILING PROVISIONS. Adjustments to federal adjusted gross income for individuals and federal taxable income for corporations made on previous tax returns filed prior to the effective date of this section of this Act may be required. These adjustments relate to the disallowance of both the additional fifty percent first-year depreciation allowance authorized in section 168(k) of the Internal Revenue Code for assets acquired after May 5, 2003, and before January 1, 2005, and the increase in the expensing allowance authorized in section 179(b) of the Internal Revenue Code for tax periods beginning on or after January 1, 2003. In lieu of filing an amended tax return, taxpayers may make these adjustments, pursuant to rules adopted by the director of revenue, on the next return filed subsequent to the effective date of this section of this Act or on the return for the tax year immediately preceding the tax year for which its return is filed subsequent to the effective date of this section of this Act. If the taxpayer elects not to file an amended return, the "allowed or allowable" provisions and regulations of sections 167 and 1016 of the Internal Revenue Code are suspended with regard to the depreciation adjustment otherwise available as a result of this Act.

Sec. 6. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment. Sections 1 and 3 of this Act apply retroactively to tax years ending after May 5, 2003. Sections 2 and 4 of this Act apply retroactively to tax years beginning on or after January 1, 2003.

Approved February 24, 2005

CHAPTER 3**NONSUBSTANTIVE CODE CORRECTIONS***S.F. 113*

AN ACT relating to nonsubstantive Code corrections and including effective and retroactive applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 4.1, subsection 39, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The words “written” and “in writing” may include any mode of representing words or letters in general use, and include an electronic record as defined in section 554D.103. A signature, when required by law, must be made by the writing or markings of the person whose signature is required. “Signature” includes an electronic or digital signature as defined in section 554D.103. If a person is unable due to a physical disability to make a written signature or mark, that person may substitute either of the following in lieu of a signature required by law:

Sec. 2. Section 10B.4, subsection 1, Code 2005, is amended to read as follows:

1. A biennial report shall be filed by a reporting entity with the secretary of state on or before March 31 of each odd-numbered year as required by rules adopted by the secretary of state pursuant to chapter 17A. However, a reporting entity required to file a biennial report pursuant to chapter 490, 496C, 497, 498, 499, 501, 504, or 504A shall file the report required by this section in the same year as required by that chapter. The reporting entity may file the report required by this section together with the biennial report required to be filed by one of the other chapters referred to in this subsection. The reports shall be filed on forms prepared and supplied by the secretary of state. The secretary of state may provide for combining its reporting forms with other biennial reporting forms required to be used by the reporting entities.

Sec. 3. Section 10B.7, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Lessees of agricultural land under section 9H.4, subsection 2, paragraph “c”, for research or experimental purposes, shall file a biennial report with the secretary of state on or before March 31 of each odd-numbered year on forms adopted pursuant to chapter 17A and supplied by the secretary of state. However, a lessee required to file a biennial report pursuant to chapter 490, 496C, 497, 498, 499, 501, 504, or 504A shall file the report required by this section in the same year as required by that chapter. The lessee may file the report required by this section together with the biennial report required to be filed by one of the other chapters referred to in this paragraph. The report shall contain the following information for the reporting period:

Sec. 4. Section 10C.6, subsection 1, paragraph a, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A life science enterprise may acquire or hold agricultural land, notwithstanding section 10C.5, ~~as that section exists in the 2005 Code~~ 2005, if all of the following apply:

Sec. 5. Section 10C.6, subsection 1, paragraph a, subparagraph (2), Code 2005, is amended to read as follows:

(2) The enterprise acquires or holds the agricultural land pursuant to chapter 10C, ~~as that chapter exists in the 2005 Code~~ 2005.

Sec. 6. Section 10C.6, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A person who is a successor in interest to a life science enterprise may acquire or hold agricultural land, notwithstanding section 10C.5, ~~as that section exists in the 2003 Code or 2003 or Code Supplement 2003~~, if all of the following apply:

Sec. 7. Section 10C.6, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. The person meets the qualifications of a life science enterprise and acquires or holds the agricultural land as provided in chapter 10C, ~~as that chapter exists in the 2003 Code or 2003 or Code Supplement 2003.~~

Sec. 8. Section 12.71, subsections 1 and 7, Code 2005, are amended to read as follows:

1. The treasurer of state may issue bonds upon the request of the vision Iowa board created in section 15F.102 and do all things necessary with respect to the purposes of the vision Iowa fund. The treasurer of state shall have all of the powers which are necessary to issue and secure bonds and carry out the purposes of the fund. The treasurer of state may issue bonds in principal amounts which, in the opinion of the board, are necessary to provide sufficient funds for the vision Iowa fund created in section 12.72, the payment of interest on the bonds, the establishment of reserves to secure the bonds, the costs of issuance of the bonds, other expenditures of the treasurer of state incident to and necessary or convenient to carry out the bond issue for the fund, and all other expenditures of the board necessary or convenient to administer the fund; provided, however, excluding the issuance of refunding bonds, bonds issued pursuant to this section shall not be issued in an aggregate principal amount which exceeds three hundred million dollars. The bonds are investment securities and negotiable instruments within the meaning of and for purposes of the uniform commercial code, chapter 554.

7. Neither the resolution, trust agreement, nor any other instrument by which a pledge is created needs to be recorded or filed under the Iowa uniform commercial code, chapter 554, to be valid, binding, or effective.

Sec. 9. Section 12.81, subsections 1 and 7, Code 2005, are amended to read as follows:

1. The treasurer of state may issue bonds for purposes of the school infrastructure program established in section 292.2. Excluding the issuance of refunding bonds, the treasurer of state shall not issue bonds which result in the deposit of bond proceeds of more than fifty million dollars into the school infrastructure fund. The treasurer of state shall have all of the powers which are necessary to issue and secure bonds and carry out the purposes of the fund. The treasurer of state may issue bonds in principal amounts which are necessary to provide funds for the fund as provided by this section, the payment of interest on the bonds, the establishment of reserves to secure the bonds, the costs of issuance of the bonds, other expenditures of the treasurer of state incident to and necessary or convenient to carry out the bond issue for the fund, and all other expenditures of the treasurer of state necessary or convenient to administer the fund. The bonds are investment securities and negotiable instruments within the meaning of and for purposes of the uniform commercial code, chapter 554.

7. Neither the resolution, trust agreement, nor any other instrument by which a pledge is created needs to be recorded or filed under the Iowa uniform commercial code, chapter 554, to be valid, binding, or effective.

Sec. 10. Section 12E.11, subsection 2, Code 2005, is amended to read as follows:

2. The authority may issue its bonds in principal amounts which, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its purposes, the payment of interest on its bonds, the establishment of reserves to secure the bonds, the costs of issuance of its bonds, and all other expenditures of the authority incident to and necessary to carry out its purposes or powers. The bonds are investment securities and negotiable instruments within the meaning of and for the purposes of the uniform commercial code, chapter 554.

Sec. 11. Section 12E.16, Code 2005, is amended to read as follows:

12E.16 BANKRUPTCY.

Prior to the date which is three hundred sixty-six days after which the authority no longer has any bonds outstanding, the authority is prohibited from filing a voluntary petition under chapter 9 nine of the federal bankruptcy code, 11 U.S.C. § 901 et seq., or such corresponding chapter or section as may, from time to time, be in effect, and a public official or organization,

entity, or other person shall not authorize the authority to be or become a debtor under chapter ~~9~~ nine or any successor or corresponding chapter or sections during such periods. The provisions of this section shall be part of any contractual obligation owed to the holders of bonds issued under this chapter. Any such contractual obligation shall not subsequently be modified by state law, during the period of the contractual obligation.

Sec. 12. Section 16.26, subsection 1, Code 2005, is amended to read as follows:

1. The authority may issue its negotiable bonds and notes in principal amounts as, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. The bonds and notes shall be deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code, chapter 554.

Sec. 13. Section 16.105, subsection 10, Code 2005, is amended to read as follows:

10. It is the intention of the general assembly that a pledge made in respect of bonds or notes shall be valid and binding from the time the pledge is made, that the money or property so pledged and received after the pledge by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act, and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority whether or not the parties have notice of the lien. Neither the resolution, trust agreement, nor any other instrument by which a pledge is created needs to be recorded or filed under the Iowa uniform commercial code, chapter 554, to be valid, binding, or effective against the parties.

Sec. 14. Section 16.177, subsections 1 and 7, Code 2005, are amended to read as follows:

1. The authority is authorized to issue its bonds to provide prison infrastructure financing as provided in this section. The bonds may only be issued to finance projects which have been approved for financing by the general assembly. Bonds may be issued in order to fund the construction and equipping of a project or projects, the payment of interest on the bonds, the establishment of reserves to secure the bonds, the costs of issuance of the bonds and other expenditures incident to or necessary or convenient to carry out the bond issue. The bonds are investment securities and negotiable instruments within the meaning of and for the purposes of the uniform commercial code, chapter 554.

7. Neither the resolution or trust agreement, nor any other instrument by which a pledge is created is required to be recorded or filed under the uniform commercial code, chapter 554, to be valid, binding, or effective.

Sec. 15. Section 17A.1, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The purposes of ~~the Iowa administrative procedure Act~~ this chapter are: To provide legislative oversight of powers and duties delegated to administrative agencies; to increase public accountability of administrative agencies; to simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions; to increase public access to governmental information; to increase public participation in the formulation of administrative rules; to increase the fairness of agencies in their conduct of contested case proceedings; and to simplify the process of judicial review of agency action as well as increase its ease and availability. In accomplishing its objectives, the intention of this chapter is to strike a fair balance between these purposes and the need for efficient, economical and effective government administration. The chapter is not meant to alter the substantive rights of any person or agency. Its impact is limited to procedural rights with the expectation that better substantive results will be achieved in the everyday conduct of state government by improving the process by which those results are attained.

Sec. 16. Section 17A.23, unnumbered paragraph 2, Code 2005, is amended to read as follows:

~~The Iowa administrative procedure Act~~ This chapter shall be construed broadly to effectuate its purposes. This chapter shall also be construed to apply to all agencies not expressly exempted by this chapter or by another statute specifically referring to this chapter by name; and except as to proceedings in process on July 1, 1975, this chapter shall be construed to apply to all covered agency proceedings and all agency action not expressly exempted by this chapter or by another statute specifically referring to this chapter by name.

Sec. 17. Section 29B.82, Code 2005, is amended to read as follows:

29B.82 DESERTION.

1. Any member of the state military forces who ~~does any of the following is guilty of desertion:~~

1. a. Without authority goes or remains absent from the member's unit, organization, or place of duty with intent to remain away therefrom permanently;;

2. b. Quits the member's unit, organization or place of duty with intent to avoid hazardous duty or to shirk important services;or

3. c. Without being regularly separated from one of the state military forces enlists or accepts an appointment in the same or another one of the state military forces, or in one of the armed forces of the United States, without duly disclosing the fact that the member has not been regularly separated;is guilty of desertion.

2. Any commissioned officer of the state military forces who, after tender of the officer's resignation and before notice of its acceptance, quits a post or proper duties without leave and with intent to remain away therefrom permanently is guilty of desertion.

3. Any person found guilty of desertion or attempt to desert shall be punished as a court-martial may direct.

Sec. 18. Section 68A.406, subsection 3, Code 2005, is amended to read as follows:

3. Yard signs with dimensions of thirty-two square feet or less are exempt from the attribution statement requirement in section 68A.405. Campaign signs in excess of thirty-two square feet, or signs that are affixed to buildings or vehicles regardless of size except for bumper stickers, are required to include the attribution statement required by section 68A.405. The placement or erection of yard signs shall be exempt from the requirements of chapter 480 relating to underground facilities ~~organization~~ information.

Sec. 19. Section 68A.503, subsection 4, paragraph a, Code 2005, is amended to read as follows:

a. Using its funds to encourage registration of voters and participation in the political process or to publicize public issues, ~~but does not use any~~ provided that no part of those contributions ~~are used~~ to expressly advocate the nomination, election, or defeat of any candidate for public office.

Sec. 20. Section 76.16, Code 2005, is amended to read as follows:

76.16 DEBTOR STATUS PROHIBITED.

A city, county, or other political subdivision of this state shall not be a debtor under chapter ~~9~~ nine of the federal Bankruptcy Code, 11 U.S.C. § 901 et seq., except as otherwise specifically provided in this chapter.

Sec. 21. Section 76.16A, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A city, county, or other political subdivision may become a debtor under chapter ~~9~~ nine of the federal Bankruptcy Code, 11 U.S.C. § 901 et seq., if it is rendered insolvent, as defined in 11 U.S.C. § 101(32)(c), as a result of a debt involuntarily incurred. As used herein, "debt" means an obligation to pay money, other than pursuant to a valid and binding collective bar-

gaining agreement or previously authorized bond issue, as to which the governing body of the city, county, or other political subdivision has made a specific finding set forth in a duly adopted resolution of each of the following:

Sec. 22. Section 97B.1A, subsection 11, paragraph b, Code 2005, is amended to read as follows:

b. If the member has not attained seventy years of age, has terminated all employment covered under ~~the~~ this chapter or formerly covered under ~~the~~ this chapter pursuant to section 97B.42 in the month prior to the member's first month of entitlement.

Sec. 23. Section 97C.2, subsection 4, Code 2005, is amended to read as follows:

4. The term "Federal Insurance Contributions Act" means subchapter "A" of chapter 9 nine of the federal Internal Revenue Code as such code has been and may from time to time be amended.

Sec. 24. Section 99D.2, subsection 9, Code 2005, is amended to read as follows:

9. "Wagering area" means that portion of a racetrack in which a licensee may receive wagers of money from a person present in a licensed ~~racing~~ racetrack enclosure on a horse or dog in a race selected by the person making the wager as designated by the commission.

Sec. 25. Section 99D.11, subsection 3, Code 2005, is amended to read as follows:

3. The licensee may receive wagers of money only from a person present in a licensed ~~racing~~ racetrack enclosure on a horse or dog in the race selected by the person making the wager to finish first in the race. The person wagering shall acquire an interest in the total money wagered on all horses or dogs in the race as first winners in proportion to the amount of money wagered by the person.

Sec. 26. Section 99D.13, subsection 3, paragraph c, unnumbered paragraph 1, Code 2005, is amended to read as follows:

For purposes of this subsection, "qualified harness racing track" means a harness racing track that has either held at least one harness race ~~meet~~ meeting between July 1, 1985, and July 1, 1989, or after July 1, 1989, has applied to and been approved by the racing commission for the allocation of funds under this subsection. The racing commission shall approve an application if the harness racing track has held at least one harness race ~~meet~~ meeting during the year preceding the year for which the track seeks funds under this subsection.

Sec. 27. Section 99D.20, Code 2005, is amended to read as follows:

99D.20 AUDIT OF LICENSEE OPERATIONS.

Within ninety days after the end of each race ~~meet~~ meeting, the licensee shall transmit to the commission an audit of the financial transactions and condition of the licensee's operations conducted under this chapter. Additionally, within ninety days after the end of the licensee's fiscal year, the licensee shall transmit to the commission an audit of the licensee's total racing and gaming operations, including an itemization of all expenses and subsidies. All audits shall be conducted by certified public accountants registered in the state of Iowa under chapter 542 who are selected by the board of supervisors of the county in which the licensee operates.

Sec. 28. Section 99F.4C, subsection 2, Code 2005, is amended to read as follows:

2. For purposes of this section, the "applicable area" means that portion of the city of Des Moines in Polk county bounded by a line commencing at the point East Euclid avenue intersects East Fourteenth street, then proceeding south along East Fourteenth street and Southeast Fourteenth street until it intersects Park avenue, then proceeding west along Park avenue until it intersects Fleur drive, then proceeding north along Fleur drive until it intersects Eighteenth street, then proceeding north along Eighteenth street until it intersects Ingersoll avenue, then proceeding west along Ingersoll avenue until it intersects Martin Luther King Jr.

parkway, then proceeding northerly along Martin Luther King Jr. parkway until it intersects Euclid avenue, then proceeding east along Euclid avenue and East Euclid avenue to the point of origin. For purposes of this section, such reference to a street or other boundary means such street or boundary as ~~they were~~ it was delineated on the official Pub. L. No. 94-171 census maps used for redistricting following the 2000 United States decennial census.

Sec. 29. Section 124.308, subsection 2, Code 2005, is amended to read as follows:

2. A practitioner, other than a pharmacy, or a practitioner's authorized agent may transmit an electronic prescription or facsimile prescription to a pharmacy for a schedule II controlled substance, provided that the electronic prescription complies with section 155A.27 and provided that the original signed prescription is presented to the pharmacist prior to the dispensing of the schedule II controlled substance. If permitted by federal law, and in accordance with federal requirements, the electronic or facsimile prescription shall serve as the original signed prescription and the practitioner shall not provide the patient or the patient's authorized representative with a signed, written prescription.

Sec. 30. Section 135.31, Code 2005, is amended to read as follows:

135.31 LOCATION OF BOARDS — RULEMAKING.

The offices for the state board of medical examiners, the state board of pharmacy examiners, the state board of nursing ~~examiners~~, and the state board of dental examiners shall be located within the department of public health. The individual boards shall have policymaking and rulemaking authority.

Sec. 31. Section 135.146, subsection 1, Code 2005, is amended to read as follows:

1. In the event that federal funding is received for administering vaccinations for first responders, the department shall offer a vaccination program for first responders who may be exposed to infectious diseases when deployed to disaster locations. For purposes of this section, "first responder" means state and local law enforcement personnel, fire department personnel, and emergency medical personnel who will be deployed to sites of bioterrorism attacks, terrorist attacks, catastrophic or natural disasters, and other disasters. The vaccinations shall include, but not be limited to, vaccinations for hepatitis B, ~~diphtheria-tetanus~~ diphtheria, tetanus, influenza, and other vaccinations when recommended by the United States public health service and in accordance with federal emergency management agency policy. Immune globulin will be made available when necessary.

Sec. 32. Section 135J.1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

For the purposes of this ~~division~~ chapter unless otherwise defined:

Sec. 33. Section 135J.2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A person or governmental unit, acting severally or jointly with any other person may establish, conduct, or maintain a hospice program in this state and receive license from the department after meeting the requirements of this ~~division~~ chapter. The application shall be on a form prescribed by the department and shall require information the department deems necessary. Nothing in this ~~division~~ chapter shall prohibit a person or governmental unit from establishing, conducting, or maintaining a hospice program without a license. Each application for license shall be accompanied by a nonrefundable biennial license fee determined by the department.

Sec. 34. Section 135J.5, Code 2005, is amended to read as follows:

135J.5 DENIAL, SUSPENSION, OR REVOCATION OF LICENSES.

The department may deny, suspend, or revoke a license if the department determines there is failure of the program to comply with this ~~division~~ chapter or the rules adopted under this

~~division chapter.~~ The suspension or revocation may be appealed under chapter 17A. The department may reissue a license following a suspension or revocation after the hospice corrects the conditions upon which the suspension or revocation was based.

Sec. 35. Section 135J.7, Code 2005, is amended to read as follows:

135J.7 RULES.

Except as otherwise provided in this ~~division chapter~~, the department shall adopt rules pursuant to chapter 17A necessary to implement this ~~division chapter~~, subject to approval of the state board of health. Formulation of the rules shall include consultation with Iowa hospice organization representatives and other persons affected by ~~the division~~ this chapter.

Sec. 36. Section 147.14, subsection 3, Code 2005, is amended to read as follows:

3. For the board of nursing examiners, four registered nurses, two of whom shall be actively engaged in practice, two of whom shall be nurse educators from nursing education programs; of these, one in higher education and one in area community and vocational-technical registered nurse education; one licensed practical nurse actively engaged in practice; and two members not registered nurses or licensed practical nurses and who shall represent the general public. The representatives of the general public shall not be members of health care delivery systems. A majority of the members of the board constitutes a quorum.

Sec. 37. Section 147.152, subsection 2, Code 2005, is amended to read as follows:

2. Hearing aid fitting, the dispensing or sale of hearing aids and the providing of hearing aid service and maintenance by a hearing aid ~~dealer~~ dispenser or holder of a temporary permit as defined and licensed under chapter 154A.

Sec. 38. Section 147.152, unnumbered paragraph 2, Code 2005, is amended to read as follows:

A person exempted from the provisions of this division by this section shall not use the title speech pathologist or audiologist or any title or device indicating or representing in any manner that the person is a speech pathologist or is an audiologist; provided, a hearing aid ~~dealer~~ dispenser licensed under chapter 154A may use the title "certified hearing aid audiologist" when granted by the national hearing aid society; and provided, persons who meet the requirements of section 147.153, subsection 1, who are certified by the department of education as speech clinicians may use the title speech pathologist and persons who meet the requirements of section 147.153, subsection 2, who are certified by the department of education as hearing clinicians may use the title audiologist, while acting within the scope of their employment.

Sec. 39. Section 157.3A, unnumbered paragraph 1, Code 2005, is amended to read as follows:

In addition to the license requirements of section 157.3, ~~as provided in this section~~, a written application and proof of additional training and certification shall be required prior to approval by the board for the provision of the services described in this section.

Sec. 40. Section 162.2, subsection 6, Code 2005, is amended to read as follows:

6. "Commercial breeder" means a person, engaged in the business of breeding dogs or cats, who sells, exchanges, or leases dogs or cats in return for consideration, or who offers to do so, whether or not the animals are raised, trained, groomed, or boarded by the person. A person who owns or harbors three or ~~less~~ fewer breeding males or females is not a commercial breeder. However, a person who breeds or harbors more than three breeding male or female greyhounds for the purposes of using them for pari-mutuel racing shall be considered a commercial breeder irrespective of whether the person sells, leases, or exchanges the greyhounds for consideration or offers to do so.

Sec. 41. Section 165B.5, subsection 4, paragraph d, Code 2005, is amended to read as follows:

d. The department shall be reimbursed by the owner of the poultry or property for costs required to carry out this subsection. However, if the enforcement action is brought due to the activity of a law enforcement officer of a political subdivision, the political subdivision shall be reimbursed by the owner of the poultry or property for those costs. The department or political subdivision shall certify the amount to the county auditor of any county in which the owner is a titleholder of real property. The amount shall be placed upon the tax books ~~which~~ and shall be a lien upon the real property, and collected with interest and penalties after due, in the same manner as other unpaid property taxes.

Sec. 42. Section 167.4, subsection 3, Code 2005, is amended to read as follows:

3. The person shall submit a separate application for each location that the person is to operate as a disposal plant, collection point, or a delivery service.

Sec. 43. Section 167.15, subsection 2, Code 2005, is amended to read as follows:

2. The department shall provide for the inspection of delivery vehicles used to transport carcasses or offal material, and for the inspection of disposal plants, collection points, or other locations in which carcasses or offal material is stored or processed before being delivered to a disposal plant.

Sec. 44. Section 173.14B, subsections 2 and 7, Code 2005, are amended to read as follows:

2. The board may issue negotiable bonds and notes of the authority in principal amounts which are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes, and all other expenditures of the board incident to and necessary or convenient to carry out its purposes and powers, subject to authorization and approval required under subsection 1. However, the total principal amount of bonds and notes outstanding at any time under subsection 1 and this subsection shall not exceed twenty-five million dollars. The bonds and notes are deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code, chapter 554.

7. A copy of each pledge agreement by or to the authority, including without limitation each bond resolution, indenture of trust, or similar agreement, or any revisions or supplements to it shall be filed with the secretary of state and no further filing or other action under article 9 of the uniform commercial code as provided in chapter 554, or any other law of the state is required to perfect the security interest in the collateral or any additions to it or substitutions for it, and the lien and trust so created is binding from and after the time it is made against all parties having claims of any kind in tort, contract, or otherwise against the pledgor.

Sec. 45. Section 175.17, subsections 1 and 7, Code 2005, are amended to read as follows:

1. The authority may issue its negotiable bonds and notes in principal amounts which, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. The bonds and notes shall be deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code, chapter 554.

7. A copy of each pledge agreement by or to the authority, including without limitation each bond resolution, indenture of trust or similar agreement, or any revisions or supplements to it shall be filed with the secretary of state and no further filing or other action under article 9 of the uniform commercial code as provided in chapter 554, or any other law of the state shall be required to perfect the security interest in the collateral or any additions to it or substitutions for it and the lien and trust so created shall be binding from and after the time made against all parties having claims of any kind in tort, contract or otherwise against the pledgor.

Sec. 46. Section 181.17, Code 2005, is amended to read as follows:

181.17 PRODUCERS NOT MEMBERS.

A producer who is not a member of the Iowa beef cattle producers association shall be entitled to vote in elections of persons to be members of the ~~executive committee~~ council in the same manner as if the producer were a member. The members elected to the ~~executive committee~~ council shall elect from their number the officers referred to in section 181.1A.

Sec. 47. Section 181.18, Code 2005, is amended to read as follows:

181.18 RULES.

All rules of the ~~executive committee~~ council heretofore or hereinafter promulgated shall be subject to the provisions of chapter 17A.

Sec. 48. Section 216A.156, Code 2005, is amended to read as follows:

216A.156 REVIEW OF GRANT APPLICATIONS AND BUDGET REQUESTS.

Before the submission of an application, ~~a state departments and agencies~~ department or agency shall consult with the commission concerning ~~applications~~ an application for federal funding that will have its primary effect on persons of Asian and Pacific Islander heritage in Iowa. The commission shall advise the governor and the director of revenue concerning any state agency budget request that will have its primary effect on persons of Asian and Pacific Islander heritage in Iowa.

Sec. 49. Section 216E.7, Code 2005, is amended to read as follows:

216E.7 EXEMPTIONS.

This chapter does not apply to a hearing aid sold, leased, or transferred to a consumer by an audiologist licensed under chapter 147, or a hearing aid ~~dealer~~ dispenser licensed under chapter 154A, if the audiologist or ~~dealer~~ dispenser provides either an express warranty for the hearing aid or provides for service and replacement of the hearing aid.

Sec. 50. Section 217.41, subsection 1, Code 2005, is amended to read as follows:

1. The department of human services shall cause a refugee services foundation to be created for the sole purpose of engaging in refugee resettlement activities to promote the welfare and self-sufficiency of refugees who live in Iowa and who are not citizens of the United States. The foundation may establish an endowment fund to assist in the financing of its activities. The foundation shall be incorporated under chapter 504 or 504A.

Sec. 51. Section 218.28, Code 2005, is amended to read as follows:

218.28 INVESTIGATION.

The administrator of the department of human services in control of a particular institution or the administrator's authorized officer or employee shall visit, and minutely examine, at least once in six months, and ~~oftener~~ more often if necessary or required by law, the institutions under such administrator's control, and the financial condition and management thereof.

Sec. 52. Section 229.36, Code 2005, is amended to read as follows:

229.36 LIMITATION ON PROCEEDINGS.

The proceeding authorized in sections 229.31 to 229.35, inclusive, shall not be had ~~oftener~~ more often than once in six months regarding the same person; nor regarding any patient within six months after the patient's admission to the hospital.

Sec. 53. Section 249A.20A, subsection 9, Code 2005, is amended to read as follows:

9. The department may procure a sole source contract with an outside entity or ~~contractor~~ contractor to participate in a pharmaceutical pooling program with midwestern or other states to provide for an enlarged pool of individuals for the purchase of pharmaceutical products and services for medical assistance recipients.

Sec. 54. Section 249A.34, subsection 6, paragraph a, subparagraph (7), subparagraph subdivision (f), Code 2005, is amended to read as follows:

(f) The federal Medicare Prescription Drug, Improvement and Medicare Improvement Modernization Act of 2003, Pub. L. No. 108-173.

Sec. 55. Section 256.11, subsection 15, Code 2005, is amended to read as follows:

15. The board of directors of a school district or the authorities in charge of a nonpublic school may award credit toward graduation to a student if the student successfully completes basic training in for service as a member of the Iowa army national guard, the Iowa air national guard, or as a member of the active military forces of the United States, or as a member of the army national guard of the United States, or the air national guard of the United States.

Sec. 56. Section 257C.8, subsection 3, Code 2005, is amended to read as follows:

3. The authority may issue its bonds in principal amounts which, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds, the establishment of reserves to secure its bonds, the costs of issuance of its bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. The bonds are investment securities and negotiable instruments within the meaning of and for purposes of the uniform commercial code, chapter 554.

Sec. 57. Section 272C.1, subsection 6, paragraph v, Code 2005, is amended to read as follows:

v. The board for the licensing and regulation of hearing aid dealers dispensers, created pursuant to chapter 154A.

Sec. 58. Section 275.41, subsection 2, Code 2005, is amended to read as follows:

2. Prior to the organization organizational meeting of the newly formed district, the boards of the former districts shall designate directors to be retained as members to serve on the initial board, and if the total number of directors determined under subsection 1 is an even number, that number of directors shall function and may within five days of the organizational meeting appoint one additional director by unanimous vote with all directors voting. Otherwise, the board shall function until a special election can be held to elect an additional director. The procedure for calling the special election shall be the procedure specified in section 275.25. If there is an insufficient number of board members eligible to be retained from a former school district, the board of the former school district may appoint members to fill the vacancies. A vacancy occurs if there is an insufficient number of former board members who reside in the newly formed district or if there is an insufficient number who are willing to serve on the board of the newly formed district.

Sec. 59. Section 279.27, Code 2005, is amended to read as follows:

279.27 DISCHARGE OF TEACHER.

A teacher may be discharged at any time during the contract year for just cause. The superintendent or the superintendent's designee, shall notify the teacher immediately that the superintendent will recommend in writing to the board at a regular or special meeting of the board held not more than fifteen days after notification has been given to the teacher that the teacher's continuing contract be terminated effective immediately following a decision of the board. The procedure for dismissal shall be as provided in sections 279.15(2) section 279.15, subsection 2, and sections 279.16 to 279.19. The superintendent may suspend a teacher under this section pending hearing and determination by the board.

Sec. 60. Section 305.8, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. In consultation with the homeland security and emergency management division of the

department of public safety ~~defense~~, establish policies, standards, and guidelines for the identification, protection, and preservation of records essential for the continuity or reestablishment of governmental functions in the event of an emergency arising from a natural or other disaster.

Sec. 61. Section 306.46, subsection 2, Code 2005, is amended to read as follows:

2. For purposes of this section, "public utility" means a public utility as defined in section 476.1, and shall also include waterworks, municipally owned waterworks, joint water utilities, rural water districts incorporated under chapter 357A or chapter 504 or 504A, and cooperative water associations. For the purposes of this section, "utility facilities" means any cables, conduits, wire, pipe, casing pipe, supporting poles, guys, and other material and equipment utilized for the furnishing of electric, gas, communications, water, or sewer service.

Sec. 62. Section 321I.3, subsection 1, Code 2005, is amended to read as follows:

1. Each all-terrain vehicle used on public land or ice of this state shall be currently registered and numbered. A person shall not operate, maintain, or give permission for the operation or maintenance of an all-terrain vehicle on public land or ice unless the all-terrain vehicle is numbered in accordance with this chapter or applicable federal laws, or unless the all-terrain vehicle displays a current annual user permit for the all-terrain vehicle as provided in section 321I.5. If the all-terrain vehicle is required to be registered in this state, the identifying number set forth in the registration shall be displayed as prescribed by rules of the commission.

Sec. 63. Section 322.5, subsection 2, paragraph a, subparagraph (2), Code 2005, is amended to read as follows:

(2) Display, offer for sale, and negotiate sales of new motor vehicles at fair events, as defined in chapter 174, vehicle shows, and vehicle exhibitions, upon application for and receipt of a temporary permit issued by the department. Such activities may only be conducted at ~~fairs~~ fair events, vehicle shows, and vehicle exhibitions that are held in the county of the motor vehicle dealer's principal place of business. A sale of a motor vehicle by a motor vehicle dealer shall not be completed and an agreement for the sale of a motor vehicle shall not be signed at a fair event, vehicle show, or vehicle exhibition. All such sales shall be consummated at the motor vehicle dealer's principal place of business.

Sec. 64. Section 329.13, Code 2005, is amended to read as follows:

329.13 ADMINISTRATION OF AIRPORT ZONING REGULATIONS.

All airport zoning regulations adopted under this chapter shall provide for the administration and enforcement of such regulations by an administrative agency (~~which, which~~ may be an agency created by such regulations) regulations, or by any official, board, or other existing agency of the municipality adopting the regulations, or of one or both of the municipalities which participated therein, but in no case shall such administrative agency be or include any member of the board of adjustment. The duties of any administrative agency designated pursuant to this chapter shall not include any of the powers herein delegated to the board of adjustment.

Sec. 65. Section 331.438, subsection 4, paragraph b, subparagraph (16), Code 2005, is amended to read as follows:

(16) Develop a procedure for each county to disclose to the department of human services information approved by the commission concerning the mental health, mental retardation, developmental disabilities, and brain injury services provided to the individuals served through the county central point of coordination process. The procedure shall incorporate protections to ensure that if individually identified information is disclosed, it is disclosed and maintained in compliance with applicable Iowa and federal confidentiality laws, including but not limited to federal Health Insurance Portability and Accountability Act, Pub. L. No. 104-191, requirements.

Sec. 66. Section 331.609, subsection 3, paragraph b, subparagraphs (1) and (2), Code 2005, are amended to read as follows:

(1) Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of the uniform commercial code, chapter 554, except that the notice of lien to which the certificate relates shall not be removed from the files.

(2) Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of the uniform commercial code, chapter 554.

Sec. 67. Section 356.1, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The jails in the several counties in the state shall be in the charge of the respective sheriffs and used as prisons:

Sec. 68. Section 423.18, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A business purchaser that is not a holder of a direct pay tax permit pursuant to section 423.36 that knows at the time of ~~its purchase of~~ purchasing a digital good, computer software delivered electronically, or a service that the digital good, computer software delivered electronically, or service will be concurrently available for use in more than one jurisdiction shall deliver to the seller in conjunction with ~~its~~ the purchase a "multiple points of use" or "MPU" exemption form disclosing this fact.

Sec. 69. Section 423.56, subsection 6, Code 2005, is amended to read as follows:

6. When personally identifiable information regarding an individual is retained by or on behalf of this state, this state shall provide reasonable access by ~~such~~ the individual to ~~his or her~~ the individual's own information in the state's possession and a right to correct any inaccurately recorded information.

Sec. 70. Section 423B.5, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the sales price taxed by the state under chapter 423, subchapter II. A local sales and services tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the sales price from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the sales price from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 423A during the period the hotel and motel tax is imposed, on the sales price from the sale of equipment by the state department of transportation, on the sales price from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99G and except the tax shall not be imposed on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the sales price from the sale of natural gas or electric energy ~~are~~ is subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is ap-

plicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state sales taxes. However, a person required to collect state retail sales tax under chapter 423, subchapter V or VI, is not required to collect local sales and services tax on transactions delivered within the area where the local sales and services tax is imposed unless the person has physical presence in that taxing area. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favors its imposition.

Sec. 71. Section 423E.3, subsection 2, Code 2005, is amended to read as follows:

2. The tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the sales price from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the sales price from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 423A during the period the hotel and motel tax is imposed, on the sales price from the sale of equipment by the state department of transportation, on the sales price from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment, and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99G and except the tax shall not be imposed on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the sales price from the sale of natural gas or electric energy ~~are~~ is subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

Sec. 72. Section 435.1, subsection 6, unnumbered paragraph 3, Code 2005, is amended to read as follows:

A manufactured home community or a mobile home park must be classified as to whether it is a residential manufactured home community or a mobile home park or a recreational manufactured home community or a mobile home park or both. The manufactured home ~~community communities~~ or mobile home park ~~parks~~ residential landlord and tenant Act, chapter 562B, only applies to residential manufactured home communities or mobile home parks.

Sec. 73. Section 452A.3, subsection 7, Code 2005, is amended to read as follows:

7. All excise taxes collected under this chapter by a supplier, restrictive supplier, importer, dealer, blender, user, or any individual are deemed to be held in trust for the state ~~or~~ of Iowa.

Sec. 74. Section 453A.26, Code 2005, is amended to read as follows:
453A.26 LIENS AND ACTIONS.

All of the provisions for the lien of the tax, its collection, and all actions as provided in the uniform sales and use tax administration Act, chapter 423, shall apply to the tax imposed by this chapter, except that where the sales tax and the cigarette tax may become conflicting liens, they shall be of equal priority.

Sec. 75. Section 456A.18, Code 2005, is amended to read as follows:
456A.18 REPORT OF FUNDS.

The director shall, at least monthly, make return and pay to the treasurer of state all moneys then in the director's hands belonging to the five funds created in section 456A.17.

Sec. 76. Section 502.304A, subsection 3, paragraph d, Code 2005, is amended to read as follows:

d. The aggregate offering price of the offering of securities by the issuer within or outside this state must not exceed one million dollars, less the aggregate offering price for all securities sold within twelve months before the start of, and during the offering of, the securities under rule 504, 17 C.F.R. § 230.504, in reliance on any exemption under section 3(b) of the Securities Act of 1933 or in violation of section 5(a) of that Act; provided, that if rule 504, 17 C.F.R. § 230.504, adopted under the Securities Act of 1933, is amended, that the administrator may by rule increase the limit under this paragraph to conform to amendments to federal law, including but not limited to modification in the amount of the aggregate offering price.

Sec. 77. Section 502.412, subsection 4, paragraphs a, b, d, and i, Code 2005, are amended to read as follows:

a. The person has filed an application for registration in this state under this chapter or the predecessor chapter 502, Code 2003 and Code Supplement 2003, within the previous ten years, which, as of the effective date of registration or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained a statement that, in light of the circumstances under which it was made, was false or misleading with respect to a material fact.

b. The person willfully violated or willfully failed to comply with this chapter or the predecessor chapter 502, Code 2003 and Code Supplement 2003, or a rule adopted or order issued under this chapter or the predecessor chapter 502, Code 2003 and Code Supplement 2003, within the previous ten years.

d. The person is enjoined or restrained by a court of competent jurisdiction in an action instituted by the administrator under this chapter or the predecessor chapter 502, Code 2003 and Code Supplement 2003, a state, the securities and exchange commission, or the United States from engaging in or continuing an act, practice, or course of business involving an aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance.

i. The person has failed to reasonably supervise an agent, investment adviser representative, or other individual, if the agent, investment adviser representative, or other individual was subject to the person's supervision and committed a violation of this chapter or the predecessor chapter 502, Code 2003 and Code Supplement 2003, or a rule adopted or order issued under this chapter or the predecessor chapter 502, Code 2003 and Code Supplement 2003, within the previous ten years.

Sec. 78. Section 502.601, subsection 1, Code 2005, is amended to read as follows:

1. ADMINISTRATION. This chapter shall be administered by the commissioner of insurance of this state. The administrator shall appoint a deputy administrator who shall be exempt from the merit system provisions of chapter 8A, subchapter IV. The deputy administrator is the principal operations officer of the securities bureau of the insurance division of the department of commerce. The deputy administrator is responsible to the administrator for the routine administration of this chapter and the management of the securities bureau. In the absence of the administrator, whether because of vacancy in the office, by reason of absence, physical disability, or other cause, the deputy administrator shall be the acting administrator and shall, for that period, have and exercise the authority conferred upon the administrator. The administrator may by order delegate to the deputy administrator any or all of the functions assigned to the administrator under this chapter. The administrator shall employ officers, attorneys, accountants, and other employees as needed for the administration of the this chapter.

Sec. 79. Section 504.115, subsection 2, paragraph a, subparagraph (1), Code 2005, is amended to read as follows:

(1) Describe the document, including its filing date, or ~~attaching~~ attach a copy of the document to the articles.

Sec. 80. Section 504.1701, subsection 1, Code 2005, is amended to read as follows:

1. A domestic corporation that is incorporated under chapter 504A, Code 2005, is subject to this chapter beginning on July 1, 2005.

Sec. 81. Section 504.1701, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. A corporation incorporated under chapter 504A, Code 2005, that voluntarily elects to be subject to the provisions of this chapter in accordance with the procedures set forth in subsection 3.

Sec. 82. Section 504.1701, subsection 3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A corporation incorporated under chapter 504A, Code 2005, may voluntarily elect to be subject to the provisions of this chapter by doing all of the following:

Sec. 83. Section 515.109A, subsection 1, paragraph j, Code 2005, is amended to read as follows:

j. "Personal insurance" means personal insurance and not commercial insurance and is limited to private passenger automobile, homeowners, farm owners, personal farm liability, motorcycle, mobile home owners, noncommercial dwelling fire ~~insurance~~, boat, personal watercraft, snowmobile, and recreational vehicle insurance policies, that are individually underwritten for personal, family, farm, or household use. No other type of insurance is included as personal insurance for the purposes of this section.

Sec. 84. Section 515.109A, subsection 3, Code 2005, is amended to read as follows:

3. DISPUTE RESOLUTION AND ERROR CORRECTION. If it is determined through the dispute resolution process set forth under the federal Fair Credit Reporting Act, 15 U.S.C. § 1681i(a)(5), that the credit information of a current insured is incorrect or incomplete and the insurer receives notice of such determination from either the consumer reporting agency or from the insured, the insurer shall re-underwrite and re-rate the insured within thirty days of receiving the notice. After re-underwriting or re-rating the insured, the insurer shall make any adjustments necessary, consistent with the insurer's underwriting and rating guidelines. If an insurer determines that an insured has overpaid ~~the~~ premium on a personal insurance policy, the insurer shall refund the amount of the overpayment to the insured, calculated for either the last twelve months of coverage or the actual policy period, whichever is shorter.

Sec. 85. Section 515.138, Code 2005, is amended to read as follows:

515.138 FIRE INSURANCE CONTRACT — STANDARD POLICY PROVISIONS — PERMISSIBLE VARIATIONS.

~~FIRST.~~ 1. The printed form of a policy of fire insurance as set forth in subsection ~~sixth~~ 6 shall be known and designated as the "standard policy" to be used in the state of Iowa.

~~SECOND.~~ 2. STANDARD POLICY, ADDITIONS, RIDERS AND CLAUSES. It shall be unlawful for any insurance company to issue any policy of fire insurance upon any property in this state except upon automobiles, airplanes, seaplanes, dirigibles, or other aircraft, farm crops until stored, marine and inland marine risks other or different from the standard form of fire insurance policy herein set forth.

There shall be printed at the head of said policy the name of the insurer or insurers issuing the policy; the location of the home office thereof; a statement whether said insurer or insurers are stock or mutual corporations or are reciprocal insurers; and subject to the approval of the commissioner of insurance, there may be added thereto such device or devices as the insurer or insurers issuing said policy shall desire. Provided, however, that any company organized under special charter provisions may so indicate upon its policy, and may add a statement of the plan under which it operates in this state.

The standard policy provided for herein need not be used for effecting reinsurance between insurers.

If the policy is issued by a mutual, co-operative or reciprocal insurer having special regulations with respect to the payment by the policyholder of assessments, such regulations shall be printed upon the policy, and any such insurer may print upon the policy such regulations as may be required by its home state or appropriate to its form of organization.

~~THIRD.~~ 3. Binders or other contracts for temporary insurance may be made and shall be deemed to include all the terms of such standard policy and all such applicable endorsements as may be designated in such contract of temporary insurance; except that the cancellation clause of such standard policy, and the clause thereof specifying the hour of the day at which the insurance shall commence, may be superseded by the express terms of such contract of temporary insurance.

~~FOURTH.~~ 4. Two or more insurers authorized to do in this state the business of fire insurance, may, with the approval of the commissioner of insurance, issue a combination standard form of policy which shall contain the following:

a. A provision substantially to the effect that the insurers executing such policy shall be severally liable for the full amount of any loss or damage, according to the terms of the policy, or for specified percentages or amounts thereof, aggregating the full amount of such insurance under such policy.

b. A provision substantially to the effect that service of process, or of any notice or proof of loss required by such policy, upon any of the insurers executing such policy, shall be deemed to be service upon all such insurers.

~~FIFTH.~~ 5. Appropriate forms of other contracts or endorsements, insuring against one or more of the perils incident to the ownership, use or occupancy of said property, other than fire and lightning, which the insurer is empowered to assume, may be used in connection with the standard policy. Such forms of other contracts or endorsements attached or printed thereon may contain provisions and stipulations inconsistent with the standard policy if applicable only to such other perils. The pages of the standard policy may be renumbered and rearranged to provide space for the listing of rates and premiums for coverages insured thereunder or under endorsements attached or printed thereon, and such other data as may be included for duplication on daily reports for office records. An insurer may issue a policy, either on an unspecified basis as to coverage or for an indivisible premium, which contains coverage against the peril of fire and substantial coverage against other perils, if such policy includes provisions with respect to the peril of fire which are the substantial equivalent of the minimum provisions of such standard policy, provided further the policy is complete as to all its terms of coverage without reference to any other document and is approved in accordance with section 515.109.

~~SIXTH.~~ 6. The form of the standard policy (with permission to substitute for the word "company" a more accurate descriptive term for the type of insurer) shall be as follows:

FIRST PAGE OF STANDARD FIRE POLICY

No. . . .

(Space for insertion of name of company or companies issuing the policy and other matter permitted to be stated at the head of the policy.)

(Space for listing amounts of insurance, rates and premiums for the basic coverages insured under the standard form of policy and for additional coverages or perils insured under endorsements attached.)

IN CONSIDERATION OF THE PROVISIONS AND STIPULATIONS HEREIN OR ADDED HERETO AND OF DOLLARS PREMIUM this company, for the term of from the day of (month), (year), to the day of (month), (year), at noon, Standard Time, at location of property involved, to an amount not exceeding Dollars, does insure and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss re-

sulting from interruption of business or manufacture, nor in any event for more than THE INTEREST OF THE INSURED, AGAINST ALL¹ DIRECT LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED, to the property described hereinafter while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere.

Assignment of this policy shall not be valid except with the written consent of this company.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such other provisions, stipulations and agreements as may be added hereto, as provided in this policy.

IN WITNESS WHEREOF, this company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized agent of this company at

.....
Secretary.

.....
President.

Countersigned this

day of (month), (year).

.....
Agent.

SECOND PAGE OF STANDARD FIRE POLICY

CONCEALMENT — FRAUD. This entire policy shall be void if, whether before or after a loss, the insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.

UNINSURABLE AND EXCEPTED PROPERTY. This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion or manuscripts.

PERILS NOT INCLUDED. This company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly, by: (a) Enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire did not originate from any of the perils excluded by this policy; (i) neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises; (j) nor shall this company be liable for loss by theft.

OTHER INSURANCE. Other insurance may be prohibited or the amount of insurance may be limited by endorsement attached hereto.

CONDITIONS SUSPENDING OR RESTRICTING INSURANCE. Unless otherwise provided in writing added hereto this company shall not be liable for loss occurring:

a. While the hazard is increased by any means within the control or knowledge of the insured; or

b. While a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; or

c. As a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

OTHER PERILS OR SUBJECTS. Any other peril to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto.

ADDED PROVISIONS. The extent of the application of insurance under this policy and of the contribution to be made by this company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added

¹ The words "the interest of the insured, against all" were changed from lowercase to capitals by computer error; they should be lowercase

hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

WAIVER PROVISIONS. No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this company relating to appraisal or to any examination provided for herein.

CANCELLATION OF POLICY. This policy shall be canceled at any time at the request of the insured, in which case this company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be canceled at any time by this company by giving to the insured a five days' written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

MORTGAGEE INTERESTS AND OBLIGATIONS. If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be canceled by giving to such mortgagee a ten days' written notice of cancellation.

If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within sixty days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to all the mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing.

PRO RATA LIABILITY. This company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved, whether collectible or not.

REQUIREMENTS IN CASE LOSS OCCURS. The insured shall give immediate written notice to this company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and AMOUNTS OF LOSS CLAIMED;² AND WITHIN SIXTY DAYS AFTER THE LOSS, UNLESS SUCH TIME IS EXTENDED IN WRITING BY THIS COMPANY, THE INSURED SHALL RENDER TO THIS COMPANY A PROOF OF LOSS, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: The time and origin of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and, if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this company all that remains of any property herein described, and submit to examinations under oath by any person named by this company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this company or its representative, and shall permit extracts and copies thereof to be made.

APPRAISAL. In case the insured and this company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a compe-

² The words "amounts of loss claimed" were changed from lowercase to capitals by computer error; they should be lowercase

tent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then, on request of the insured or this company, such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting the appraiser and the expenses of appraisal and umpire shall be paid by the parties equally.

COMPANY'S OPTIONS. It shall be optional with this company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within thirty days after the receipt of the proof of loss herein required.

ABANDONMENT. There can be no abandonment to this company of any property.

WHEN LOSS PAYABLE. The amount of loss for which this company may be liable shall be payable sixty days after proof of loss, as herein provided, is received by this company and ascertainment of the loss is made either by agreement between the insured and this company expressed in writing or by the filing with this company of an award as herein provided.

SUIT. No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within twelve months next after inception of the loss.

SUBROGATION. This company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this company.

THIRD PAGE OF STANDARD FIRE POLICY
Attach Form Below This Line

FOURTH PAGE OF STANDARD FIRE POLICY
Standard Fire Insurance Policy

Expires
Property
Total
Amount \$ Premium \$
Insured

SEE INSIDE OF POLICY FOR PERILS COVERED
No.

(Space of approximately two (2) inches for use of
Agent or Insurer.)

(Space of approximately two (2) inches for use of
Agent or Insurer.)

It is important that the written portions of all policies covering the same property read exactly alike. If they do not, they should be made uniform at once.

Sec. 86. Section 524.103, subsection 10, Code 2005, is amended to read as follows:

10. "Board of directors" means the board of directors of a state bank as provided in section 524.601. For a state ~~banks~~ bank organized as a limited liability company under this chapter, "board of directors" means a board of directors or board of managers as designated by the limited liability company in its articles of organization or operating agreement.

Sec. 87. Section 524.1408, Code 2005, is amended to read as follows:

524.1408 MERGER OF CORPORATION OR LIMITED LIABILITY COMPANY SUBSTANTIALLY OWNED BY A STATE BANK.

A state bank owning at least ninety percent of the outstanding shares, of each class, of another corporation or limited liability company which it is authorized to own under this chapter, may merge the other corporation or limited liability company into itself without approval by a vote of the shareholders of either the state bank or the subsidiary corporation or limited liability company. The board of directors of the state bank shall approve a plan of merger, mail the plan of merger to shareholders of record of the subsidiary corporation or holders of membership interests in the subsidiary limited liability company, and prepare and execute articles of merger in the manner provided for in section 490.1105. The articles of merger, together with the applicable filing and recording fees, shall be delivered to the superintendent who shall, if the superintendent approves of the proposed merger and if the superintendent finds the articles of merger satisfy the requirements of this section, deliver them to the secretary of state for filing and recording in the secretary of state's office, and they shall be filed in the office of the county recorder. The secretary of state upon filing the articles of merger shall issue a certificate of merger and send the certificate to the state bank and a copy of it to the superintendent.

Sec. 88. Section 534.513, subsection 3, Code 2005, is amended to read as follows:

3. SUPERVISION DURING LIQUIDATION. During the period of voluntary liquidation of any such association, the superintendent shall have substantially the same powers and duties as to supervision as before such liquidation, and the persons in charge of such voluntary liquidation shall furnish and deposit with the superintendent such bonds as the superintendent shall require and approve, and shall semiannually, or ~~often~~ more often if required by the superintendent report fully as to their doings and progress, and as to the financial condition of the association. Upon completion of such liquidation they shall file with the superintendent a verified final report of such liquidation and disbursement of proceeds and upon approval of such report the superintendent shall issue a written order discharging the liquidators, and their duties shall thereupon cease.

Sec. 89. Section 535B.10, subsection 6, Code 2005, is amended to read as follows:

6. The total charge for an examination or investigation shall be paid by the licensee to the administrator within thirty days after the administrator has requested payment. The administrator may by rule provide for a charge for late payment of the fee. The amount of the fee shall be based on the actual costs of the examination as determined by the administrator. Examination reports and correspondence regarding these reports shall be kept confidential except as provided in this subsection, notwithstanding chapter 22. The administrator may release the reports and correspondence in the course of an enforcement proceeding or a hearing held by the administrator. The administrator may also provide this information to the attorney general for purposes of enforcing this chapter or the consumer fraud Act, section 714.16.

Sec. 90. Section 536.4, unnumbered paragraph 3, Code 2005, is amended to read as follows:

If the application is denied, the superintendent shall within twenty days thereafter file with the banking ~~department~~ division a written transcript of the evidence and decision and findings with respect thereto containing the reasons supporting the denial, and forthwith serve upon the applicant a copy thereof.

Sec. 91. Section 537.1103, Code 2005, is amended to read as follows:

537.1103 LAW APPLICABLE.

Unless displaced by the particular provisions of this chapter, the uniform commercial code as provided in chapter 554 and the principles of law and equity, including the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy or other validating or invalidating cause supplement its provisions.

Sec. 92. Section 546A.1, subsection 4, Code 2005, is amended to read as follows:

4. "New and unused property" means tangible personal property that was acquired by the unused property merchant directly from the producer, manufacturer, wholesaler, or retailer in the ordinary course of business that which has never been used since its production or manufacture or which is in its original and unopened package or container, if such personal property was so packaged when originally produced or manufactured.

Sec. 93. Section 546A.4, subsection 3, Code 2005, is amended to read as follows:

3. An aggravated misdemeanor for a third or subsequent ~~violation~~ offense.

Sec. 94. Section 551A.3, subsection 1, Code 2005, is amended to read as follows:

1. DISCLOSURE DOCUMENT REQUIRED. A person required to file an irrevocable consent to service of process with the secretary of state as a seller as provided in section 551A.7 shall not act as seller in ~~the this~~ state unless the person provides a written disclosure document to each purchaser. The person shall deliver the written disclosure document to the purchaser at least ten business days prior to the earlier of the purchaser's execution of a contract imposing a binding legal obligation on the purchaser or the payment by a purchaser of any consideration in connection with the offer or sale of the business opportunity.

Sec. 95. Section 554D.101, Code 2005, is amended to read as follows:

554D.101 SHORT TITLE.

~~This section and sections 554D.102 through 554D.124 of this chapter~~ subchapter may be cited as the "Uniform Electronic Transactions Act".

Sec. 96. Section 558.1, Code 2005, is amended to read as follows:

558.1 "INSTRUMENTS AFFECTING REAL ESTATE" DEFINED — REVOCATION.

All instruments containing a power to convey, or in any manner relating to real estate, including certified copies of petitions in bankruptcy with or without the schedules appended, of decrees of adjudication in bankruptcy, and of orders approving trustees' bonds in bankruptcy, and a jobs training agreement entered into under chapter 260E or 260F between an employer and community college which contains a description of the real estate affected, shall be held to be instruments affecting the same; and no such instrument, when acknowledged or certified and recorded as in this chapter prescribed, can be revoked as to third parties by any act of the parties by whom it was executed, until the instrument containing such revocation is acknowledged and filed for record in the same office in which the instrument containing such power is recorded, except that uniform commercial code financing statements and financing statement changes as provided in chapter 554 need not be thus acknowledged.

Sec. 97. Section 558.42, Code 2005, is amended to read as follows:

558.42 ACKNOWLEDGMENT AS CONDITION PRECEDENT.

A document shall not be deemed lawfully recorded, unless it has been previously acknowledged or proved in the manner prescribed in chapter 9E, except that affidavits, and certified copies of petitions in bankruptcy with or without the schedules appended, of decrees of adjudication in bankruptcy, and of orders approving trustees' bonds in bankruptcy, and ~~Uniform Commercial Code~~ uniform commercial code financing statements and financing statement changes as provided in chapter 554 need not be thus acknowledged.

Sec. 98. Section 586.1, subsection 3, Code 2005, is amended to read as follows:

3. Acknowledgments taken and oaths administered by mayors under section 691, Code 1897, or section 1216 of subsequent Codes to and including the Code of 1939 and section ~~63A.2~~ to and including 78.2, Code of 1966 and earlier editions, in proceedings not connected with their offices.

Sec. 99. Section 589.9, Code 2005, is amended to read as follows:

589.9 MARGINAL RELEASES OF SCHOOL-FUND MORTGAGES.

The release or satisfaction of a school-fund mortgage entered on the margin of the record of the mortgage by the auditor of the county more than ten years earlier, is legalized as though the auditor had, at the time of entering the release or satisfaction, the same power thereafter conferred upon the auditor by chapter 1894 Iowa Acts, ch 53 of the Acts of the Twenty-fifth General Assembly.

Sec. 100. Section 589.22, Code 2005, is amended to read as follows:

589.22 CERTAIN LOANS, CONTRACTS AND MORTGAGES.

All loans, contracts, and mortgages which are affected by the repeal of chapter 1898 Iowa Acts, ch 48, Acts of the Twenty-seventh General Assembly, are hereby legalized so far as to permit recovery to be had thereon for interest at the rate of eight percent per annum, but at no greater rate, and nothing contained in such contracts shall be construed to be usurious so as to work a forfeiture of any penalty to the school fund.

Sec. 101. Section 600B.28, Code 2005, is amended to read as follows:

600B.28 REPORT BY TRUSTEE.

The trustee shall report to the court annually, or ~~often~~ more often as directed by the court, the amounts received and paid over.

Sec. 102. Section 602.8102, subsection 69, Code 2005, is amended to read as follows:

69. With acceptable sureties, approve the bond of a petitioner filing an appeal for review of an order of the commissioner of insurance as provided in section ~~502.606 or~~ 507A.7.

Sec. 103. Section 602.8108, subsections 5 and 6, Code 2005, are amended to read as follows:

5. The clerk of the district court shall remit all moneys collected from the assessment of the law enforcement initiative surcharge provided in section 911.3 to the state court administrator no later than the fifteenth day of each month, ~~all the moneys collected during the preceding month,~~ for deposit in the general fund of the state.

6. The clerk of the district court shall remit all moneys collected from the county enforcement surcharge pursuant to section 911.4 to the county where the citation was issued for deposit in the county general fund no later than the fifteenth day of each month.

Sec. 104. Section 602.11116, subsection 3, Code 2005, is amended to read as follows:

3. To commence membership under the judicial retirement system pursuant to article 9, part 1, retroactive to the date the associate juvenile judge or associate probate judge became an associate juvenile judge or associate probate judge, and to cease to be a member of the Iowa public employees' retirement system, effective July 1, 1998. The department of administrative services personnel shall transmit by January 1, 1999, to the state court administrator for deposit in the judicial retirement fund the associate juvenile judge's or associate probate judge's accumulated contributions as defined in section 97B.1A, subsection 2, for the judge's period of membership service as an associate juvenile judge or associate probate judge. Before July 1, 2000, or at retirement previous to that date, an associate juvenile judge or associate probate judge who becomes a member of the judicial retirement system pursuant to this subsection shall contribute to the judicial retirement fund an amount equal to the difference between four percent of the associate juvenile judge's or associate probate judge's total salary received for

the entire period of service before July 1, 1998, as an associate juvenile judge or associate probate judge, and the associate juvenile judge's or associate probate judge's accumulated contributions transmitted by the department of ~~administrative services~~ personnel to the state court administrator pursuant to this subsection. The associate juvenile judge's or associate probate judge's contribution shall not be limited to the amount specified in section 602.9104, subsection 1. The state court administrator shall credit an associate juvenile judge or associate probate judge with service under the judicial retirement system for the period of service for which contributions at the four percent level are made.

Sec. 105. Section 633.700, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Unless specifically relieved from so doing, by the instrument creating the trust, or by order of the court, the trustee shall make a written report, under oath, to the court, once each year, and ~~often~~ more often, if required by the court. Such report shall state:

Sec. 106. Section 633.905, subsection 3, Code 2005, is amended to read as follows:

3. To be effective, a disclaimer must be in a writing or other record, declare the disclaimer, describe the interest or power disclaimed, be signed by the person making the disclaimer, and be delivered or filed in the manner provided in section 633.912. In this subsection, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 107. Section 636.28, Code 2005, is amended to read as follows:

636.28 ANNUAL ACCOUNTING.

Once in each year, and ~~often~~ more often if required by the court, the person so appointed must, on oath, render to the court an account in writing of all moneys so received by that person, and of the application thereof.

Sec. 108. Section 657.1, subsection 2, Code 2005, is amended to read as follows:

2. Notwithstanding subsection 1, in an action to abate a nuisance against an electric utility, an electric utility may assert a defense of comparative fault as set out in section 668.3 if the electric utility demonstrates that in the course of providing electric services to its customers ~~that~~ it has complied with engineering and safety standards as adopted by the utilities board of the department of commerce, and if the electric utility has secured all permits and approvals, as required by state law and local ordinances, necessary to perform activities alleged to constitute a nuisance.

Sec. 109. Section 708.3A, subsections 5, 6, 7, and 8, Code 2005, are amended to read as follows:

5. As used in this section, "~~health care provider~~" ~~means an emergency medical care provider as defined in chapter 147A or a person licensed or registered under chapter 148, 148C, 148D, 150, 150A, or 152 who is providing or who is attempting to provide emergency medical services, as defined in section 147A.1, or who is providing or who is attempting to provide health services as defined in section 135.61 in a hospital. A person who commits an assault under this section against a health care provider in a hospital, or at the scene or during out-of-hospital patient transportation in an ambulance, is presumed to know that the person against whom the assault is committed is a health care provider. the following definitions apply:~~

6. a. As used in this section, "correctional Correctional staff" means a person who is not a peace officer but who is employed by the department of corrections or a judicial district department of correctional services to work at or in a correctional institution, community-based correctional facility, or an institution under the management of the Iowa department of corrections which is used for the purposes of confinement of persons who have committed public offenses.

7. As used in this section, "jailer" means a person who is employed by a county or other polit-

ical subdivision of the state to work at a county jail or other facility used for purposes of the confinement of persons who have committed public offenses, but who is not a peace officer.

8. b. As used in this section, “employee” “Employee of the department of human services” means a person who is an employee of an institution controlled by the director of human services that is listed in section 218.1, or who is an employee of the civil commitment unit for sex offenders operated by the department of human services. A person who commits an assault under this section against an employee of the department of human services at a department of human services institution or unit is presumed to know that the person against whom the assault is committed is an employee of the department of human services.

c. “Health care provider” means an emergency medical care provider as defined in chapter 147A or a person licensed or registered under chapter 148, 148C, 148D, 150, 150A, or 152 who is providing or who is attempting to provide emergency medical services, as defined in section 147A.1, or who is providing or who is attempting to provide health services as defined in section 135.61 in a hospital. A person who commits an assault under this section against a health care provider in a hospital, or at the scene or during out-of-hospital patient transportation in an ambulance, is presumed to know that the person against whom the assault is committed is a health care provider.

d. “Jailer” means a person who is employed by a county or other political subdivision of the state to work at a county jail or other facility used for purposes of the confinement of persons who have committed public offenses, but who is not a peace officer.

Sec. 110. Section 717A.2, subsection 3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A person violating this section is guilty of the following penalties:

Sec. 111. Section 728.1, subsection 6, Code 2005, is amended to read as follows:

6. “Place of business” means the premises of a business required to obtain a sales tax permit pursuant to chapter 422 ~~423~~, the premises of a nonprofit or not-for-profit organization, and the premises of an establishment which is open to the public at large or where entrance is limited by a cover charge or membership requirement.

Sec. 112. Section 730.5, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. “Confirmed positive test result” means, except for alcohol testing conducted pursuant to subsection 7, paragraph “f”, subparagraph (2), the results of a blood, urine, or oral fluid test in which the level of controlled substances or metabolites in the specimen analyzed meets or exceeds nationally accepted standards for determining detectable levels of controlled substances as adopted by the federal substance abuse and mental health services administration. If nationally accepted standards for oral fluid tests have not been adopted by the federal substance abuse and mental health services administration, the standards for determining detectable levels of controlled substances for purposes of determining a confirmed positive test result shall be the same standard that has been established by the federal food and drug administration for the measuring instrument used to perform the oral fluid test.

Sec. 113. Section 812.9, subsection 4, Code 2005, is amended to read as follows:

4. If ~~upon termination of~~ the defendant’s placement is terminated pursuant to subsection 2 or pursuant to section 812.8, subsection 8, and it appears thereafter that the defendant has regained competency, the state may make application to reinstate the prosecution of the defendant and hearing shall be held on the matter in the same manner as if the court has received notice under section 812.8, subsection 4.

Sec. 114. 2004 Iowa Acts, chapter 1021, section 117, is amended to read as follows:

SEC. 117. Sections 15E.149, 422.15, 486A.901, 486A.902, 486A.906, and 490A.1203, and ~~669.14~~, Code 2003, and ~~section 669.14, Code Supplement 2003~~, as amended by this Act, are amended by striking from the sections the figure and word “487 or” or the figure “487.”

Sec. 115. 2004 Iowa Acts, chapter 1052, section 4, is amended by striking the section and inserting in lieu thereof the following:

SEC. 4. Section 602.8102, subsection 78, Code Supplement 2003, is amended to read as follows:

78. Certify an acknowledgment of a written instrument relating to real estate as provided in section 9E.10 or 558.20.

Sec. 116. 2004 Iowa Acts, chapter 1084, section 8, the portion enacting section 812.6, subsection 3, Code 2005, is amended to read as follows:

3. A defendant ordered to obtain treatment or committed to a facility under this section may refuse treatment by chemotherapy or other somatic treatment. The defendant's right to refuse chemotherapy treatment or other somatic treatment shall not apply if, in the judgment of the director or the director's designee of the facility where the defendant has been committed, ~~determines~~ such treatment is necessary to preserve the life of the defendant or to appropriately control behavior of the defendant which is likely to result in physical injury to the defendant or others. If in the judgment of the director of the facility or the director's designee where the defendant has been committed, chemotherapy or other somatic treatments are necessary and appropriate to restore the defendant to competency and the defendant refuses to consent to the use of these treatment modalities, the director of the facility or the director's designee shall request from the district court which ordered the commitment of the defendant an order authorizing treatment by chemotherapy or other somatic treatments.

Sec. 117. 2004 Iowa Acts, chapter 1141, section 34, is amended to read as follows:

SEC. 34. Section 68B.35, Code Supplement 2003, and sections 536.13, 536.23, and 536.28, Code 2003, are amended by striking from the sections the words "state banking board" and "banking board" and "board" when referring to the state banking board and inserting in lieu thereof the words "state banking council" or "council", as appropriate.

Sec. 118. EFFECTIVE DATES AND RETROACTIVE APPLICABILITY.

1. The section of this Act amending 2004 Iowa Acts, chapter 1052, section 4, takes effect upon enactment and applies retroactively to July 1, 2004.

2. The section of this Act amending 2004 Iowa Acts, chapter 1084, section 8, takes effect upon enactment and applies retroactively to July 1, 2004.

3. The section of this Act amending 2004 Iowa Acts, chapter 1141, section 34, takes effect upon enactment and applies retroactively to July 1, 2004.

Approved March 3, 2005

CHAPTER 4**BUSINESS ENTITY NAMES***H.F. 175*

AN ACT relating to the names of business entities.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 488.108, Code 2005, is amended by adding the following new subsection:

NEWSUBSECTION. 7. This chapter does not control the use of fictitious names. However, a limited partnership which uses a fictitious name in this state shall deliver to the secretary of state for filing a copy of the resolution of the limited partnership certified by its general partners, adopting the fictitious name.

Sec. 2. Section 547.1, Code 2005, is amended to read as follows:

547.1 USE OF TRADE NAME — VERIFIED STATEMENT REQUIRED.

A person ~~or copartnership~~ shall not engage in or conduct a business under a trade name, or an assumed name of a character other than the true surname of each person owning or having an interest in the business, unless the person first records with the county recorder of the county in which the business is to be conducted a verified statement showing the name, post office address, and residence address of each person owning or having an interest in the business, and the address where the business is to be conducted. However, this provision does not apply to any person organized or incorporated in this state as a domestic entity or authorized to do business in this state as a foreign entity, if the person is a limited partnership under chapter 487 or 488, a corporation under or limited liability company incorporated or organized in this state or any foreign corporation or foreign limited liability company authorized to do business in this state or doing business pursuant to an exemption in chapter 490; or a limited liability company under chapter 490A; a professional corporation under chapter 496C; a cooperative or cooperative association under chapter 497, 498, 499, or 501; or a nonprofit corporation under chapter 504 or 504A.

Approved March 3, 2005

CHAPTER 5**INHERITANCE TAX — JOINT ACCOUNT FUNDS — WITHDRAWAL NOTICE***H.F. 197*

AN ACT relating to inheritance tax by eliminating the requirement that the department of revenue receive notice of withdrawal of funds from a joint account by a surviving joint owner.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 450.97, Code 2005, is repealed.

Approved March 3, 2005

CHAPTER 6**CHILD DEATH REVIEW TEAM DUTIES***H.F. 190*

AN ACT expanding the duties of the child death review team and making a penalty applicable.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 135.43, subsection 3, paragraph d, Code 2005, is amended to read as follows:

d. ~~Maintain~~ Except as authorized by this section, maintain the confidentiality of any patient records or other confidential information reviewed.

Sec. 2. Section 135.43, subsection 3, Code 2005, is amended by adding the following new paragraphs:

NEW PARAGRAPH. e. Recommend to the department of human services, appropriate law enforcement agencies, and any other person involved with child protection, interventions that may prevent harm to a child who is related to or is living in the same home as a child whose case is reviewed by the team.

NEW PARAGRAPH. f. If the sharing of information is necessary to assist in or initiate a child death investigation or criminal prosecution and the office or agency receiving the information does not otherwise have access to the information, share information possessed by the review team with the office of the attorney general, a county attorney's office, or an appropriate law enforcement agency. The office or agency receiving the information shall maintain the confidentiality of the information in accordance with this section. Unauthorized release or disclosure of the information received is subject to penalty as provided in this section.

NEW PARAGRAPH. g. In order to assist another¹ division of the department in performing the division's duties, if the division does not otherwise have access to the information, share information possessed by the review team. The division receiving the information shall maintain the confidentiality of the information in accordance with this section. Unauthorized release or disclosure of the information received is subject to penalty as provided in this section.

Sec. 3. Section 135.43, subsection 4, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. If deemed appropriate by the committee, at any point in the review the committee may recommend to the department of human services, appropriate law enforcement agencies, and any other person involved with child protection, interventions that may prevent harm to a child who is related to or is living in the same home as a child whose case is reviewed by the committee.

Approved March 11, 2005

¹ See chapter 179, §118 herein

CHAPTER 7

IOWA CAPITAL INVESTMENT BOARD TAX CREDIT CERTIFICATES

S.F. 114

AN ACT relating to tax credit certificates issued by the Iowa capital investment board and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 15E.63, subsections 6 and 7, Code 2005, are amended to read as follows:

6. The board shall, in cooperation with the department of revenue, establish criteria and procedures for the allocation and issuance of tax credits to designated investors by means of certificates issued by the board. The criteria shall include the contingencies that must be met for a certificate to be redeemable by a designated investor or transferee in order to receive a tax credit. The contingencies to redemption shall be tied to the scheduled rates of return ~~and scheduled redemptions~~ of equity interests purchased by designated investors in the Iowa fund of funds. The procedures established by the board, in cooperation with the department of revenue, shall relate to the procedures for the issuance of the certificates and the related tax credits, for the transfer of a certificate and related tax credit by a designated investor, and for the redemption of a certificate and related tax credit by a designated investor or transferee. The board shall also establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors and transferees, including, without limitation, criteria and procedures for evaluating the value of investments made by the Iowa fund of funds and the returns from the Iowa fund of funds.

7. Pursuant to section 15E.66, the board shall issue certificates which may be redeemable for tax credits to provide incentives to designated investors to make equity investments in the Iowa fund of funds. The board shall issue the certificates so that not more than twenty million dollars of tax credits may be initially redeemable in any fiscal year. The board shall indicate on the tax certificate the principal amount of the tax credit and the ~~taxable year or years for date or dates on~~ which the credit may be first claimed.

Sec. 2. Section 15E.65, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. The Iowa fund of funds shall be organized as a private, for-profit, limited partnership or limited liability company under Iowa law pursuant to which the Iowa capital investment corporation shall be the general partner or manager. The entity shall be organized so as to provide for equity interests for designated investors which provide for a designated scheduled rate of return ~~and a scheduled redemption which shall occur not less than five years following the issuance of such equity interests~~. The interest of the Iowa capital investment corporation in the Iowa fund of funds shall be to serve as general partner or manager and to be paid a management fee for the service as provided in section 15E.64, subsection 8, and to receive investment returns of the Iowa fund of funds in excess of those payable to designated investors. Any returns in excess of those payable to designated investors shall be reinvested by the Iowa capital investment corporation by being held in the Iowa fund of funds as a revolving fund for reinvestment in venture capital funds or investments until the termination of the Iowa fund of funds. Any returns received from these reinvestments shall be deposited in the revolving fund.

Sec. 3. Section 15E.66, subsections 1, 2, 3, and 5, Code 2005, are amended to read as follows:

1. The board may issue certificates and related tax credits to designated investors which, if redeemed for the maximum possible amount, shall not exceed a total aggregate of one hundred million dollars of tax credits. The certificates shall be issued contemporaneously with ~~an investment~~ a commitment to invest in the Iowa fund of funds by a designated investor. A

certificate issued by the board shall have a specific ~~calendar year~~ maturity date or dates designated by the board ~~of not less than five years after the date of issuance~~ and shall be redeemable ~~on a schedule similar to the scheduled redemption of investments by designated investors only in accordance with the contingencies reflected on the certificate or incorporated therein by reference.~~ A certificate and the related tax credit shall be transferable by the designated investor. A tax credit shall not be claimed or redeemed except by a designated investor or transferee in accordance with the terms of a certificate from the board. A tax credit shall not be claimed for a tax year that begins ~~during~~ earlier than the ~~calendar year~~ maturity date or dates stated on the certificate. An individual may claim the credit of a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust. Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the tax liability for the following seven years, or until depleted, whichever is earlier.

2. The board shall certify the maximum amount of a tax credit which could be issued to a designated investor and identify the specific ~~calendar year~~ earliest date or dates the certificate may be redeemed pursuant to this division. The amount of the tax credit shall be limited to an amount equivalent to any difference between the scheduled aggregate return to the designated investor at rates of return authorized by the board and aggregate actual return received by the designated investor and any predecessor in interest of capital and interest on the capital. The rates, whether fixed rates or variable rates, shall be determined pursuant to a formula stipulated in the certificate or incorporated therein by reference. The board shall clearly indicate on the certificate, or incorporate therein by reference, the schedule, the amount of equity investment, the calculation formula for determining the scheduled aggregate return on invested capital, and the calculation formula for determining the amount of the tax credit that may be claimed. ~~Once moneys are invested by~~ issued to a designated investor, ~~the a~~ certificate shall be binding on the board and the department of revenue and shall not be modified, terminated, or rescinded.

3. If a designated investor or transferee elects to redeem a certificate, the certificate shall not be redeemed ~~on June 30 or prior to the~~ calendar year maturity date or dates stated on the certificate. At the time of redemption, the board shall determine the amount of the tax credit that may be claimed by the designated investor based upon the returns received by the designated investor and its predecessors in interest and the provisions of the certificate. The board shall issue a verification to the department of revenue setting forth the maximum tax credit which can be claimed by the designated investor with respect to the redemption of the certificate.

5. The board shall issue the tax credits in such a manner that not more than twenty million dollars of tax credits may be initially redeemable in any fiscal year. The board shall indicate on the tax certificate the principal amount of the tax credit and the ~~taxable year or years for~~ maturity date or dates on which the credit may be first claimed.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 14, 2005

CHAPTER 8

MOTOR VEHICLES AND RELATED REGULATION

H.F. 216

AN ACT relating to motor vehicle regulation by the state department of transportation, including motor vehicle registration and titling, restricted and special driver's licenses for minors, driver licensing, regulation of commercial vehicles, the use of flashing lights on certain vehicles, citations for child restraint violations, permits for vehicles of excessive height or weight, procedures for motor vehicle dealers, and persons with disabilities parking, and relating to refunds of taxes on motor fuel used in taxicabs and buses that provide certain services.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 299.1B, Code 2005, is amended to read as follows:

299.1B FAILURE TO ATTEND — LOSS OF DRIVER'S LICENSE.

A person who does not attend a public school, an accredited nonpublic school, competent private instruction in accordance with the provisions of chapter 299A, an alternative school, ~~or adult education classes, or who is not employed at least twenty hours per week shall not receive a motor vehicle operator's an intermediate or full driver's license until age eighteen.~~ A person under age eighteen who has been issued a motor vehicle operator's license who does not attend a public school, an accredited nonpublic school, competent private instruction in accordance with the provisions of chapter 299A, an alternative school, ~~or adult education classes, shall surrender the license and be issued a temporary restricted license under section 321.215.~~

Sec. 2. Section 321.1, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 6A. "Bona fide business address" means the current street or highway address of a firm, association, or corporation.

NEW SUBSECTION. 6B. "Bona fide residence" or "bona fide address" means the current street or highway address of an individual's residence. The bona fide residence of a homeless person is a primary nighttime residence meeting one of the criteria listed in section 48A.2, subsection 2.

Sec. 3. Section 321.1, subsection 61, Code 2005, is amended by striking the subsection.

Sec. 4. Section 321.9, Code 2005, is amended to read as follows:

321.9 AUTHORITY TO ADMINISTER OATHS.

Officers and employees of the department designated by the director, ~~county officials authorized under this chapter to issue motor vehicle registrations and titles, and county officials authorized under chapter 321M to issue driver's licenses~~ are authorized, for the purpose of administering the motor vehicle laws, ~~authorized to administer oaths and acknowledge signatures, and shall do so without fee.~~

Sec. 5. Section 321.12, subsection 4, Code 2005, is amended to read as follows:

4. The director shall not destroy any operating records pertaining to arrests or convictions for operating while intoxicated, in violation of section 321J.2 or operating records pertaining to revocations for violations of section 321J.2A, except that a conviction or revocation under section 321J.2 or 321J.2A ~~that is not subject to 49 C.F.R. § 383 shall be deleted from the operating records twelve years after the date of conviction or the effective date of revocation.~~ Convictions or revocations that are retained in the operating records for more than twelve years under this subsection shall be considered only for purposes of disqualification actions under 49 C.F.R. § 383.

Sec. 6. Section 321.23, subsection 1, Code 2005, is amended to read as follows:

1. If the vehicle to be registered is a specially constructed, reconstructed, ~~remanufactured,~~ or foreign vehicle, such fact shall be stated in the application. A fee of ten dollars shall be paid by the person making the application upon issuance of a certificate of title by the county treasurer. ~~With reference to every~~ For a specially constructed or reconstructed motor vehicle subject to registration, the application shall be accompanied by a statement from the department authorizing the motor vehicle to be titled and registered in this state. The department shall cause a physical inspection to be made of all specially constructed or reconstructed motor vehicles, upon application for a certificate of title by the owner, to determine whether the motor vehicle complies with the definition of specially constructed motor vehicle or reconstructed motor vehicle in this chapter and to determine that the integral component parts are properly identified and that the rightful ownership is established before issuing the owner the authority to have the motor vehicle registered and titled. The purpose of the physical inspection under this section is not to determine whether the motor vehicle is in a condition safe to operate. ~~With reference to every~~ The owner of a specially constructed or reconstructed vehicle shall apply for a certificate of title and registration for the vehicle at the county treasurer's office within thirty days of the inspection. ~~For a foreign vehicle which has been registered outside of this state, the owner shall surrender to the treasurer all registration plates, registration cards, and certificates of title, or, if the vehicle to be registered is from a nontitle state, the evidence of foreign registration and ownership as may be prescribed by the department except as provided in subsection 2.~~

Sec. 7. Section 321.24, subsection 1, Code 2005, is amended to read as follows:

1. Upon receipt of the application for title and payment of the required fees for a motor vehicle, trailer, or semitrailer, the county treasurer or the department shall, when satisfied as to the application's genuineness and regularity, and, in the case of a mobile home or manufactured home, that taxes are not owing under chapter 435, issue a certificate of title and, except for a mobile home or manufactured home, a registration receipt, and shall file the application, the manufacturer's or importer's certificate, the certificate of title, or other evidence of ownership, as prescribed by the department. The registration receipt shall be delivered to the owner and shall contain upon its face the date issued, the name and address of the owner, the registration number assigned to the vehicle, the amount of the fee paid, the amount of tax paid pursuant to section 423.26, the type of fuel used, ~~and~~ a description of the vehicle as determined by the department, ~~and upon the reverse side a form for notice of transfer of the vehicle.~~ The name and address of any lessee of the vehicle shall not be printed on the registration receipt or certificate of title. Up to three owners may be listed on the registration receipt and certificate of title.

Sec. 8. Section 321.24, subsection 11, Code 2005, is amended to read as follows:

11. If the county treasurer or department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, or a junking certificate has been issued for the vehicle but a certificate of title will not be reissued under section 321.52, subsection 3, and the vehicle qualifies as an antique vehicle under section 321.115, subsection 1, the county treasurer or department may register the vehicle but shall, as a condition of issuing a certificate of title and registration receipt, require the applicant to file with the department a bond in the form prescribed by the department and executed by the applicant, and either accompanied by the deposit of cash with the department or also executed by a person authorized to conduct a surety business in this state. The owner of a vehicle subject to the bond requirements of this subsection shall apply for a certificate of title and registration for the vehicle at the county treasurer's office within thirty days of issuance of written authorization from the department. The bond shall be in an amount equal to one and one-half times the current value of the vehicle as determined by the department and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss, or dam-

age, including reasonable attorney fees, by reason of the issuance of the certificate of title of the vehicle or on account of any defect in or undisclosed security interest upon the right, title, and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, and any deposit accompanying it, shall be returned at the end of three years or prior thereto if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond. The department may authorize issuance of a certificate of title as provided in this subsection for a vehicle with an unreleased security interest upon presentation of satisfactory evidence that the security interest has been extinguished and the holder of the security interest cannot be located to release the security interest as provided in section 321.50.

Sec. 9. Section 321.34, subsection 8A, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The owner of a motor vehicle subject to registration under section 321.109, subsection 1, motorcycle, trailer, or motor truck who was a prisoner of war during ~~the Second World War at any time between December 7, 1941, and December 31, 1946, the Korean Conflict at any time between June 25, 1950, and January 31, 1955, or the Vietnam Conflict at any time between August 5, 1964, and June 30, 1973, all dates inclusive,~~ a time of military conflict may, upon written application to the department, order only one set of special registration plates with an ex-prisoner of war processed emblem. The emblem shall be designed by the department in cooperation with the adjutant general and shall signify that the owner was a prisoner of war as described in this subsection. The application is subject to approval by the department, in consultation with the adjutant general. The special plates shall be issued at no charge and are subject to an annual registration fee of fifteen dollars. The county treasurer shall validate the special plates in the same manner as regular registration plates are validated under this section.

Sec. 10. Section 321.43, Code 2005, is amended to read as follows:

321.43 NEW IDENTIFYING NUMBERS.

The department may assign a distinguishing number to a vehicle when the serial number on the vehicle is destroyed or obliterated and issue to the owner a special plate bearing the distinguishing number which shall be affixed to the vehicle in a position to be determined by the director. The vehicle shall be registered and titled under the distinguishing number in lieu of the former serial number within thirty days of issuance of the distinguishing number.

Sec. 11. Section 321.52, subsections 1 and 2, Code 2005, are amended to read as follows:

1. When a vehicle is sold outside the state for purposes other than for junk, the owner, dealer or otherwise, shall detach the registration plates and registration card and shall indicate on the ~~reverse side of such registration card~~ the name and address of the foreign purchaser or transferee over the person's signature. ~~The~~ Unless the registration plates are legally attached to another vehicle, the owner shall surrender the registration plates and registration card to the county treasurer, ~~unless the registration plates are properly attached to another vehicle,~~ who shall cancel the records, ~~and shall~~ destroy the registration plates, and forward the registration card to the department. The department shall make a notation on the records of the out-of-state sale, and, after a reasonable period, may destroy the files to ~~for~~ that particular vehicle. The department is not authorized to make a refund of ~~license~~ registration fees on a vehicle sold out of state unless it receives the registration card completed as provided in this section.

2. The purchaser or transferee of a motor vehicle for which a certificate of title is issued which is sold for scrap or junk shall surrender the certificate of title, properly endorsed and signed by the previous owner, to the county treasurer of the county of residence of the transferee, and shall apply for a junking certificate from the county treasurer, within thirty days after

assignment of the certificate of title. The county treasurer shall issue to such person without fee a junking certificate. A junking certificate shall authorize the holder to possess, transport, or transfer by endorsement the ownership of the junked vehicle. A certificate of title shall not again be issued for the vehicle subsequent to the issuance of a junking certificate except as provided in subsection 3. The county treasurer shall cancel the record of the vehicle. The junking certificate shall be printed on the registration receipt form and shall be imprinted with the words "junking certificate", as prescribed by the department. A space for transfer by endorsement shall be on the reverse side of the junking certificate. A separate form for the notation of the transfer of component parts shall be attached to the junking certificate when the certificate is issued.

Sec. 12. Section 321.109, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Dealers may, in addition to other provisions of this section, purchase from the department in-transit ~~stickers permits~~, for which a fee of two dollars per ~~sticker permit~~ shall be paid at time of purchase. One such ~~sticker permit~~ shall be displayed on each vehicle purchased from a dealer by a nonresident for removal to the state of the nonresident's residence, and one such ~~sticker permit~~ shall also be displayed on each vehicle not currently registered in Iowa and purchased by an Iowa dealer for removal to the dealer's place of business in this state. The ~~stickers permits~~ shall be void fifteen days after issuance by the selling dealer. Each ~~sticker permit~~ shall contain the following information:

Sec. 13. Section 321.109, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

~~This information shall be on the gummed side of the sticker and the sticker shall be made of a type of material which is self-destructive when the sticker is removed.~~ The sales invoice verifying the sale shall be in the possession of the driver of the vehicle in transit and shall be signed by the owner or an authorized individual of the issuing dealership.

Sec. 14. Section 321.176A, subsection 3, Code 2005, is amended to read as follows:

3. ~~Military personnel while on active duty and operating equipment owned or operated by the United States department of defense. The following persons when operating commercial motor vehicles for military purposes:~~

- ~~a. Active duty military personnel.~~
- ~~b. Members of the military reserves.~~
- ~~c. Members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians.~~
- ~~d. Active duty United States coast guard personnel.~~

Sec. 15. Section 321.178, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. A person between sixteen and eighteen years of age who has completed an approved driver's education course and is not in attendance at school ~~or who is in attendance in a public or private school where an approved driver's education course is not offered or available, and has not met the requirements described in section 299.2, subsection 1,~~ may be issued a restricted license only for travel to and from work or to transport dependents to and from temporary care facilities, if necessary for the person to maintain the person's present employment, ~~without having completed an approved driver's education course.~~ The restricted license shall be issued by the department only upon confirmation of the person's employment and need for a restricted license to travel to and from work or to transport dependents to and from temporary care facilities if necessary to maintain the person's employment ~~and upon receipt of a written statement from the public or private school that an approved course in driver's education was not offered or available to the person, if applicable.~~ The employer shall notify the department

if the employment of the person is terminated before the person attains the age of eighteen. ~~The person shall not have a restricted license revoked or suspended upon reentering school prior to age eighteen if the student enrolls in and completes the classroom portion of an approved driver's education course as soon as a course is available.~~

Sec. 16. Section 321.191, subsection 7, Code 2005, is amended to read as follows:

7. ENDORSEMENTS AND REMOVAL OF AIR BRAKE RESTRICTIONS. The fee for a double/triple trailer endorsement, tank vehicle endorsement, and hazardous materials endorsement is five dollars for each endorsement. The fee for a passenger endorsement or a school bus endorsement is ten dollars. The fee for removal of an air brake restriction on a commercial driver's license is ten dollars. Fees imposed under this subsection for endorsements or removal of restrictions are valid for the period of the license. Upon renewal of a commercial driver's license, no fee is payable for retaining endorsements or the removal of the air brake restriction for those endorsements or restrictions which do not require the taking of either a knowledge or a driving skills test for renewal.

Sec. 17. Section 321.191, subsection 9, unnumbered paragraph 2, Code 2005, is amended to read as follows:

As used in this subsection "to upgrade a license class privilege" means to add any privilege to a valid driver's license. The addition of a privilege includes converting from a noncommercial to a commercial license, converting from a noncommercial class C to a class D license, converting an instruction permit to a class license, adding any privilege to a section 321.189, subsection 7, license, adding an instruction permit privilege, adding a section 321.189, subsection 7, license to an instruction permit, and adding any privilege relating to a driver's license issued to a minor under section 321.194 or ~~section 321.178, subsection 2.~~

Sec. 18. Section 321.194, subsection 1, paragraph a, subparagraph (1), Code 2005, is amended to read as follows:

(1) During the hours of 6 a.m. to 10 p.m. over the most direct and accessible route between the licensee's residence and schools of enrollment or the closest school bus stop or public transportation service, and between schools of enrollment, for the purpose of attending duly scheduled courses of instruction and extracurricular activities within the school district.

Sec. 19. Section 321.198, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The effective date of a valid driver's license ~~to the extent that it permits the operation of a motor vehicle other than a commercial motor vehicle and other than as a chauffeur~~, issued under the laws of this state, held by any person at the time of entering the military service of the United States or of the state of Iowa, notwithstanding the expiration of the license according to its terms, is hereby extended without fee until six months following the initial separation from active duty of the person from the military service, provided the person is not suffering from physical disabilities which impair the person's competency as an operator and provided further that the licensee shall ~~upon demand of any peace officer~~ upon demand of any peace officer, furnish satisfactory evidence of the person's military service. However, a person entitled to the benefits of this section, who is charged with operating a motor vehicle without an operator's a valid driver's license, shall not be convicted if the person produces in court, within a reasonable time, a valid driver's license previously issued to that person along with evidence of the person's military service as ~~above mentioned~~ provided in this paragraph.

Sec. 20. Section 321.200, Code 2005, is amended to read as follows:

321.200 CONVICTION AND ACCIDENT FILE.

The department shall also file all accident reports and abstracts of court records of convictions received by it under the laws of this state or any other state or foreign jurisdiction and in connection therewith maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions of such licensee and the traffic

accidents in which the licensee has been involved shall be readily ascertainable and available for the consideration of the department upon any application for renewal of license and at other suitable times.

Sec. 21. Section 321.205, Code 2005, is amended to read as follows:

321.205 CONVICTION OR ADMINISTRATIVE DECISION IN ANOTHER JURISDICTION.

The department is authorized to suspend or revoke the driver's license of a resident of this state ~~upon or~~ disqualify a resident of this state from operating a commercial motor vehicle for any of the following reasons:

1. Upon receiving notice of the conviction of the resident in another state for an offense which, if committed in this state, would be grounds for the suspension or revocation of the license or ~~upon~~ disqualification of the person from operating a commercial motor vehicle.

2. Upon receiving notice of a final administrative decision in another state that the resident has acted in a manner which would be grounds for suspension or revocation of the license ~~or~~ disqualification of the person from operating a commercial motor vehicle in this state.

Sec. 22. Section 321.208, subsection 1, Code 2005, is amended to read as follows:

1. A person is disqualified from operating a commercial motor vehicle for one year upon a conviction or final administrative decision that the person ~~while operating a commercial motor vehicle~~ has committed any of the following acts or offenses in any state or foreign jurisdiction ~~while operating a commercial motor vehicle:~~

a. ~~Operating a commercial motor vehicle while under the influence of an alcoholic beverage or other drug or controlled substance or a combination of such substances.~~

b. ~~a.~~ Operating a commercial motor vehicle with an alcohol concentration, as defined in section 321J.1, of 0.04 or more.

c. ~~Refusal to submit to chemical testing required under chapter 321J.~~

d. ~~Failure to stop and render aid at the scene of an accident involving the person's vehicle.~~

e. ~~A felony or aggravated misdemeanor involving the use of a commercial motor vehicle other than an offense involving manufacturing, distributing, or dispensing a controlled substance.~~

f. ~~b.~~ Operating a commercial motor vehicle while any amount of a controlled substance is present in the person, as measured in the person's blood or urine.

c. Operating a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the person's commercial driver's license is revoked, suspended, or canceled or the person is disqualified from operating a commercial motor vehicle.

d. Operating a commercial motor vehicle involved in a fatal accident and being convicted of a moving traffic violation that contributed to the fatality, or manslaughter or vehicular homicide.

However, a person is disqualified for three years if the act or offense occurred while the person was operating a commercial motor vehicle transporting hazardous material of a type or quantity requiring vehicle placarding.

Sec. 23. Section 321.208, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. A person is disqualified from operating a commercial motor vehicle for one year upon a conviction or final administrative decision that the person has committed any of the following acts or offenses in any state or foreign jurisdiction while operating a commercial motor vehicle or while operating a noncommercial motor vehicle and holding a commercial driver's license:

a. Operating a motor vehicle while under the influence of an alcoholic beverage or other drug or controlled substance or a combination of such substances.

b. Refusal to submit to chemical testing required under chapter 321J.

c. Leaving the scene or failure to stop or render aid at the scene of an accident involving the person's vehicle.

d. A felony or aggravated misdemeanor involving the use of a commercial motor vehicle other than an offense involving manufacturing, distributing, or dispensing a controlled substance.

NEW SUBSECTION. 1B. A person is disqualified from operating a commercial motor vehicle for three years if an act or offense described in subsection 1 or 1A occurred while the person was operating a commercial motor vehicle transporting hazardous material of a type or quantity requiring vehicle placarding.

Sec. 24. Section 321.208, subsections 2, 3, and 4, Code 2005, are amended to read as follows:

2. A person is disqualified ~~from operating a commercial motor vehicle~~ for life if convicted or found to have committed two or more of the ~~above~~ acts or offenses described in subsection 1 or 1A arising out of two or more separate incidents. However, a disqualification for life is subject to a reduction to a ten-year disqualification as provided in 49 C.F.R. § 383.51 as adopted by rule by the department.

3. A person is disqualified from operating a commercial motor vehicle for ~~the person's~~ life upon a conviction that the person used a commercial or noncommercial motor vehicle in the commission of a felony or aggravated misdemeanor involving the manufacturing, distributing, or dispensing of a controlled substance as defined in section 124.101 and held a commercial driver's license at the time the offense was committed.

4. A person is disqualified from operating a commercial motor vehicle if the person receives convictions for committing within any three-year period two or more of the following offenses while operating a commercial motor vehicle:

- ~~a. Speeding fifteen miles per hour or more over the legal speed limit.~~
 - ~~b. Reckless driving.~~
 - ~~c. Any violation of the traffic laws, except a parking violation or a vehicle weight violation, which arises in connection with a fatal traffic accident.~~
 - ~~d. a. Operating a commercial motor vehicle upon a highway when not issued a commercial driver's license valid for the vehicle operated.~~
 - ~~e. b. Operating a commercial motor vehicle upon a highway when disqualified not issued the proper class of commercial driver's license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.~~
 - ~~f. c. Operating a commercial motor vehicle upon a highway without immediate possession of a driver's license valid for the vehicle operated.~~
 - ~~g. Following another motor vehicle too closely.~~
 - ~~h. Improper lane changes in violation of section 321.306.~~
- ~~The period of disqualification under this subsection shall be sixty days for two offenses within any three-year period and one hundred twenty days for three offenses within any three-year period.~~

Sec. 25. Section 321.208, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 4A. A person is disqualified from operating a commercial motor vehicle if the person receives convictions for committing within any three-year period two or more of the following offenses while operating a commercial motor vehicle or while operating a noncommercial motor vehicle and holding a commercial driver's license if the convictions result in the revocation, cancellation, or suspension of the person's commercial driver's license or noncommercial motor vehicle driving privileges:

- a. Speeding fifteen miles per hour or more over the legal speed limit.
- b. Reckless driving.
- c. Any violation of the traffic laws, except a parking violation or a vehicle weight violation, which arises in connection with a fatal traffic accident.
- d. Following another motor vehicle too closely.
- e. Improper lane changes in violation of section 321.306.

NEW SUBSECTION. 4B. The period of disqualification under subsections 4 and 4A shall

be sixty days for two offenses within any three-year period and one hundred twenty days for three offenses within any three-year period.

Sec. 26. Section 321.213B, Code 2005, is amended to read as follows:

321.213B SUSPENSION FOR FAILURE TO ATTEND.

The department shall establish procedures by rule for suspending the license of a juvenile who is in violation has been issued a driver's license and is not in compliance with the requirements of section 299.1B or issuing the juvenile a ~~temporary~~ restricted license under section 321.215 if the juvenile is employed at least twenty hours per week 321.178.

Sec. 27. Section 321.215, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

However, a temporary restricted license shall not be issued to a person whose license is revoked pursuant to a court order issued under section 901.5, subsection 10, or under section 321.209, subsections 1 through 5 or subsection 7, ~~or~~ to a juvenile whose license has been suspended or revoked pursuant to a dispositional order under section 232.52, subsection 2, paragraph "a", for a violation of chapter 124 or 453B, or section 126.3; or to a juvenile whose license has been suspended under section 321.213B. A temporary restricted license may be issued to a person whose license is revoked under section 321.209, subsection 6, only if the person has no previous drag racing convictions. A person holding a temporary restricted license issued by the department under this section shall not operate a motor vehicle for pleasure.

Sec. 28. Section 321.218, subsections 4 and 5, Code 2005, are amended to read as follows:

4. A person who operates a commercial motor vehicle upon the highways of this state when disqualified from operating the commercial motor vehicle under section 321.208 or the imminent hazard provisions of 49 C.F.R. § 383.52 commits a serious misdemeanor if a commercial driver's license is required for the person to operate the commercial motor vehicle.

5. The department, upon receiving the record of a conviction of a person under this section upon a charge of operating a commercial motor vehicle while the person is disqualified, shall extend the period of disqualification for an additional like period or for the time period specified in section 321.208, whichever is longer.

Sec. 29. Section 321.423, subsection 2, paragraph g, Code 2005, is amended to read as follows:

g. A Flashing red and amber warning lights on a school bus as described in section 321.372, and a white flashing strobe light mounted on a school bus as permitted under section 321.373, subsection 7.

Sec. 30. Section 321.423, subsection 2, Code 2005, is amended by adding the following new paragraphs:

NEW PARAGRAPH. h. A flashing amber light is permitted on a towing or recovery vehicle, a utility maintenance vehicle, a municipal maintenance vehicle, a highway maintenance vehicle, or a vehicle operated in accordance with subsection 6 or section 321.398 or 321.453.

NEW PARAGRAPH. i. Modulating headlamps in conformance with 49 C.F.R. § 571.108 S7.9.4. are permitted on a motorcycle.

Sec. 31. Section 321.423, subsection 7, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Except as provided in section 321.373, subsection 7, and subsection 2, paragraph paragraphs "c" and "i" of this section, a flashing white light shall only be used on a vehicle in the following circumstances:

Sec. 32. Section 321.446, subsection 4, paragraph a, Code 2005, is amended to read as follows:

a. An operator who violates subsection 1 or 2 is guilty of a simple misdemeanor and subject

to the penalty provisions of section 805.8A, subsection 14, paragraph "c". However, if a child is being transported in a taxicab in a manner that is not in compliance with subsection 1 or 2, the parent, legal guardian, or other responsible adult traveling with the child shall be served with a citation for a violation of this section in lieu of the taxicab operator.

Sec. 33. Section 321.449, subsection 7, Code 2005, is amended by striking the subsection.

Sec. 34. Section 321.451, subsection 1, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A towing or recovery vehicle, subject to rules adopted by the department.

Sec. 35. Section 321.451, subsection 2, Code 2005, is amended to read as follows:

2. The application for a certificate of designation must include the name and occupation of the owner of the vehicle, vehicle identification information, a description of the vehicle's equipment, and a description of the use of the vehicle when its red light is flashing, and a photograph showing a side view of the vehicle how the vehicle will be used as an authorized emergency vehicle.

Sec. 36. Section 321.456, Code 2005, is amended to read as follows:

321.456 HEIGHT OF VEHICLES — PERMITS — EXEMPTION.

A vehicle unladen or with load shall not exceed a height of thirteen feet, six inches, except ~~by permit as provided in this section.~~ However, ~~that~~ a vehicle or combination of vehicles coupled together and used exclusively for the transportation of passenger vehicles, light delivery trucks, panel delivery trucks, pickup trucks, or recreational vehicle chassis may operate without a permit provided that the height of the vehicle or vehicles coupled together does not with a height not to exceed fourteen feet. This section shall not be construed to require any railroad or public authorities to provide sufficient vertical clearance to permit the operation of such vehicle upon the highways of this state. Any damage to highways, highway or railroad structures, or underpasses caused by the height of any vehicle provided for by this section shall be borne by the operator or owner of the vehicle. ~~Vehicles unladen or with load exceeding a height of thirteen feet, six inches but not exceeding fourteen feet may be operated with a permit issued by the department or jurisdictional local authorities. The permits shall be issued annually for a fee of twenty-five dollars and subject to rules adopted by the department. The state or a political subdivision shall not be liable for damage to any vehicle or its cargo if changes in vertical clearance of a structure are made subsequent to the issuance of a permit during the term of the permit.~~

Sec. 37. Section 321A.39, unnumbered paragraph 3, Code 2005, is amended to read as follows:

The seller shall print or stamp ~~said the statement~~ conspicuously on the purchase order or invoice ~~in distinctive color ink and with clearly visible letters.~~ Said The statement shall be signed by the purchaser in the space provided therein on or before the date of delivery of the motor vehicle described in the purchase order or invoice and a copy thereof of the statement shall be given to the purchaser by the seller.

Sec. 38. Section 321E.12, Code 2005, is amended to read as follows:

321E.12 REGISTRATION MUST BE CONSISTENT.

A vehicle traveling under permit shall be properly registered for the gross weight of the vehicle and load. A trip permit issued according to section 326.23 shall not be used in lieu of the registration provided for in this section. A person owning special mobile equipment may use a transport vehicle registered for the gross weight of the transport without a load. Vehicles, while being used for the transportation of buildings, except mobile homes and factory-built structures, may be registered for the combined gross weight of the vehicle and load on a single-

trip basis. The fee is five cents per ton exceeding the weight registered under section 321.122 per mile of travel. Fees shall not be prorated for fractions of miles. This provision does not exempt these vehicles from any other provision of this chapter.

Sec. 39. Section 321L.2, subsection 5, Code 2005, is amended by striking the subsection.

Sec. 40. Section 321L.2A, subsection 4, Code 2005, is amended by striking the subsection.

Sec. 41. Section 326.11, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The director may issue temporary written authorization to carriers for vehicles acquired by a fleet owner and added to the fleet owner's prorate fleet after the beginning of the registration year. The temporary authority shall permit the operation of a commercial vehicle until permanent identification is issued, except that the temporary authority shall expire after ~~ninety~~ sixty days.

Sec. 42. Section 326.23, subsection 1, Code 2005, is amended to read as follows:

1. The owner of a commercial vehicle which is properly registered and licensed in some other jurisdiction and is to be operated occasionally on highways in this state, may, in lieu of payment of the annual registration fee for such vehicle, obtain a trip permit authorizing operation of the vehicle on the highways of this state ~~in interstate commerce~~ for a period of not to exceed seventy-two hours. The fee for the trip permit shall be ten dollars.

Sec. 43. Section 452A.17, subsection 1, paragraph a, subparagraph (2), Code 2005, is amended to read as follows:

(2) An Iowa urban transit system, or a company operating a taxicab service under contract with an Iowa urban transit system, which is used for a purpose specified in section 452A.57, subsection 6.

Sec. 44. RESTRICTED LICENSES ISSUED UNDER PRIOR LAW — VALIDITY. A restricted license issued under section 321.178, subsection 2, Code 2005, prior to the effective date of this Act remains in effect, subject to the provisions of that subsection, for as long as the license remains valid or until the minor reaches the age of eighteen.

Sec. 45. SPECIAL MINOR'S LICENSE INTERIM STUDY COMMITTEE.

1. The legislative council is requested to establish a special minor's license interim study committee to review the provisions of Code section 321.194 concerning special minor's (school) licenses and make recommendations for revisions. The primary goals of the committee shall be to eliminate ambiguities in existing language, ensure the safe transportation of Iowa's youth, and improve highway safety.

2. The membership of the committee shall include the following:

- a. Two members of the senate standing committee on transportation.
- b. Two members of the house standing committee on transportation.
- c. Two members of the senate standing committee on education.
- d. Two members of the house standing committee on education.

e. Representatives of the governor's office, the state department of transportation, the department of education, the department of public safety, the office of the attorney general, the Iowa prosecuting attorneys council, the Iowa association of chiefs of police, the Iowa state sheriffs and deputies association, and the Iowa association of safety educators.

3. The committee shall report its findings and recommendations, including proposed legislation, to the general assembly no later than January 1, 2006.

CHAPTER 9

COMMUNICATIONS SERVICES REGULATION

H.F. 277

AN ACT relating to the deregulation of communications services including considering market forces, eliminating accounting plan requirements, establishing antitrust procedures and remedies, eliminating reporting requirements, eliminating the Iowa broadband initiative, and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 476.1D, subsections 1, 2, and 3, Code 2005, are amended to read as follows:

1. Except as provided in this section, the jurisdiction of the board as to the regulation of communications services is not applicable to a service or facility that is provided or is proposed to be provided by a telephone utility that is or becomes subject to effective competition, as determined by the board.

a. In determining whether a service or facility is or becomes subject to effective competition, the board shall consider, among other factors, whether a comparable service or facility is available from a supplier other than the telephone utility in the geographic market being considered by the board and whether market forces in that market are sufficient to assure just and reasonable rates without regulation.

b. When considering market forces in the market proposed to be deregulated, the board shall consider factors including but not limited to the presence or absence of all of the following:

(1) Wireless communications services.

(2) Cable telephony services.

(3) Voice over internet protocol services.

(4) Economic barriers to the entry of competitors or potential competitors in that market.

c. In addition to other services or facilities previously deregulated, effective July 1, 2005, and at the election of each telephone utility subject to rate regulation, the jurisdiction of the board is not applicable to the retail rate regulation of business and retail local exchange services provided throughout the state except for single line flat-rated residential and business service rates provided by a telephone utility subject to rate regulation on January 1, 2005. For each such telephone utility, the initial single line flat-rated residential and business service rates shall be the corresponding rates charged by the utility as of January 31, 2005. The initial single flat-rated residential monthly service rates may be increased by an amount not to exceed one dollar per twelve-month period beginning July 1, 2005, and ending June 30, 2008. The initial single flat-rated business monthly service rates may be increased by an amount not to exceed two dollars per twelve-month period beginning July 1, 2005, and ending June 30, 2008. However, the single line flat-rated residential service rate shall not exceed nineteen dollars per month and the single line flat-rated business service rate shall not exceed thirty-eight dollars per month prior to July 1, 2008, not including charges for extended area service, regulatory charges, taxes, and other fees. Each telephone utility's extended area service rates shall not be greater than the corresponding rates charged by the telephone utility as of January 31, 2005. The board shall determine a telephone utility's extended area service rates for new extended area service established on or after July 1, 2005. If a telephone utility fails to impose the rate increase during any twelve-month period, the utility shall not impose the unused increase in any subsequent year. In addition to the rate increases permitted pursuant to this section, the telephone utility may adjust its single line flat-rated residential and business service rates by a percentage equal to the most recent annual percentage change in the gross domestic product price index as published by the federal government. The board may also authorize additional changes in the monthly rates for single line flat-rated residential and business services to reflect exogenous factors beyond the control of the telephone utility.

A telephone utility that elects to increase single line flat-rated residential or business service rates pursuant to this paragraph "c" shall offer digital subscriber line broadband service in all of the telephone utility's exchanges in this state within eighteen calendar months of the first rate increase made pursuant to this paragraph "c" by the telephone utility. The board may extend this deadline by up to nine calendar months for good cause. The board may assess a civil penalty or require a refund of all incremental revenue resulting from the rate increase initiated pursuant to this paragraph "c" if the telephone utility fails to offer digital subscriber line broadband service within the time period required by this unnumbered paragraph.

Effective July 1, 2008, the retail rate jurisdiction of the board shall not be applicable to single line flat-rated residential and business service rates unless the board during the first six calendar months of 2008 extends its retail rate jurisdiction over single line flat-rated residential and business service rates provided by a previously rate-regulated telephone utility. The board may extend its jurisdiction pursuant to this paragraph for not more than two years and may do so only after the board finds that such action is necessary for the public interest. The board shall provide the general assembly with a copy of any order to extend its jurisdiction and shall permit any telephone utility subject to the extension to increase single line flat-rated residential and business monthly service rates by an amount up to two dollars during each twelve-month period of the extension. If a telephone utility fails to impose such a rate increase during any twelve-month period, the utility may not impose the unused increase in any subsequent year.

2. Deregulation Except as provided in subsection 1, paragraph "c", deregulation of a service or facility for a utility is effective only after all of the following:

- a. A finding of effective competition by the board.
- b. Election by a utility providing the service or facility to file a deregulation accounting plan.
- c. Approval of a utility's deregulation accounting plan by the board.

3. If the board determines finds that a service or facility is subject to effective competition and approves the utility's deregulation accounting plan, the board shall deregulate the service or facility within a reasonable time.

Sec. 2. Section 476.55, Code 2005, is amended to read as follows:

476.55 COMPLAINT OF ANTITRUST ACTIVITIES.

1. An application for new or changed rates, charges, schedules or regulations filed under this chapter, or an application for a certificate or an amendment to a certificate submitted under chapter 476A, by an electric transmission line utility or a gas pipeline utility or a subsidiary of either shall not be approved by the board if, upon complaint by an Iowa electric or gas utility, the board finds activities which create or maintain a situation inconsistent with antitrust laws and the policies which underlie them. The board may grant the rate or facility certification request once it determines that those activities which led to the antitrust complaint have been eliminated. However, this subsection does not apply to an application for new or changed rates, charges, schedules or regulations after the expiration of the ten-month limitation and applicable extensions.

2. Notwithstanding section 476.1D, the board may receive a complaint from a local exchange carrier that another local exchange carrier has engaged in an activity that is inconsistent with antitrust laws and the policies which underlie them. For purposes of this subsection, "local exchange carrier" means the same as defined in section 476.96 and includes a city utility authorized pursuant to section 388.2 to provide local exchange services. If, after notice and opportunity for hearing, the board finds that a local exchange carrier has engaged in an activity that is inconsistent with antitrust laws and the policies which underlie them, the board may order any of the following:

- a. The local exchange carrier to adjust retail rates in an amount sufficient to correct the anti-trust activity.
- b. The local exchange carrier to pay any costs incurred by the complainant for the pursuit of the complaint.
- c. The local exchange carrier to pay a civil penalty.

d. Either the local exchange carrier or the complainant to pay the costs of the complaint proceeding before the board, and the other party's reasonable attorney fees.

This subsection shall not be construed to modify, restrict, or limit the right of a person to bring a complaint under any other provision of this chapter.

Sec. 3. Section 476.97, subsection 12, Code 2005, is amended by striking the subsection.

Sec. 4. Section 476.98, Code 2005, is repealed.

Approved March 15, 2005

CHAPTER 10

ANATOMIC PATHOLOGY SERVICES — BILLING

H.F. 418

AN ACT concerning billing for anatomic pathology services and making licensing sanctions applicable.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION.** 147.105 ANATOMIC PATHOLOGY SERVICES — BILLING.

1. A physician or a clinical laboratory located in this state or in another state that provides anatomic pathology services to a patient in this state shall present or cause to be presented a claim, bill, or demand for payment for such services only to the following persons:

- a. The patient who is the recipient of the services.
- b. The insurer or other third-party payor responsible for payment of the services.
- c. The hospital that ordered the services.
- d. The public health clinic or nonprofit clinic that ordered the services.
- e. The referring clinical laboratory, other than the laboratory of a physician's office or group practice, that ordered the services.
- f. A governmental agency or a specified public or private agent, agency, or organization that is responsible for payment of the services on behalf of the recipient of the services.

2. Except as provided under subsections 5 and 6, a clinical laboratory or a physician providing anatomic pathology services to patients in this state shall not, directly or indirectly, charge, bill, or otherwise solicit payment for such services unless the services were personally rendered by a physician or under the direct supervision of a physician in accordance with section 353 of the federal Public Health Service Act, 42 U.S.C. § 263a.¹

3. A person to whom a claim, bill, or demand for payment for anatomic pathology services is submitted is not required to pay the claim, bill, or demand for payment if the claim, bill, or demand for payment is submitted in violation of this section.

4. This section shall not be construed to mandate the assignment of benefits for anatomic pathology services as defined in this section.

5. This section does not prohibit claims or charges presented by a referring clinical laboratory, other than a laboratory of a physician's office or group practice, to another clinical laboratory when samples are transferred between laboratories for the provision of anatomic pathology services.

¹ See chapter 179, §120 herein

6. This section does not prohibit claims or charges for anatomic pathology services presented on behalf of a public health clinic or nonprofit clinic that ordered the services provided that the clinic is identified on the claim or charge presented.

7. A violation of this section by a physician shall subject the physician to the disciplinary provisions of section 272C.3, subsection 2.

8. As used in this section:

a. "Anatomic pathology services" includes all of the following:

(1) Histopathology or surgical pathology, meaning the gross and microscopic examination and histologic processing of organ tissue, performed by a physician or under the supervision of a physician.

(2) Cytopathology, meaning the examination of cells from fluids, aspirates, washings, brushings, or smears, including the pap test examination, performed by a physician or under the supervision of a physician.

(3) Hematology, meaning the microscopic evaluation of bone marrow aspirates and biopsies performed by a physician or under the supervision of a physician, and the examination of peripheral blood smears, performed by a physician or under the supervision of a physician, upon the request of an attending or treating physician or technologist that a blood smear be reviewed by a physician.

(4) Subcellular pathology and molecular pathology services, performed by a physician or under the supervision of a physician.

(5) Bloodbanking services, performed by a physician or under the supervision of a physician.

b. "Physician" means any person licensed to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy in this state or in another state.

Approved March 15, 2005

CHAPTER 11

NEGOTIABLE INSTRUMENTS — ENFORCEMENT AND LIABILITIES

S.F. 139

AN ACT relating to negotiable instruments, by providing for liabilities among certain parties, and providing a statute of limitations.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 554.3103, subsections 2 and 3, Code 2005, are amended to read as follows:

2. Other definitions applying to this Article and the sections in which they appear are:

a.	"Acceptance"	Section 554.3409.
b.	"Accommodated party"	Section 554.3419.
c.	"Accommodation party"	Section 554.3419.
d.	"Alteration"	Section 554.3407.
e.	"Anomalous endorsement"	Section 554.3205.
f.	"Blank endorsement"	Section 554.3205.
g.	"Cashier's check"	Section 554.3104.
h.	"Certificate of deposit"	Section 554.3104.

<u>i.</u>	"Certified check"	Section 554.3409.
<u>j.</u>	"Check"	Section 554.3104.
<u>k.</u>	"Consideration"	Section 554.3303.
<u>l.</u>	"Demand draft"	Section 554.3104.
<u>m.</u>	"Draft"	Section 554.3104.
<u>n.</u>	"Holder in due course"	Section 554.3302.
<u>o.</u>	"Incomplete instrument"	Section 554.3115.
<u>p.</u>	"Endorsement"	Section 554.3204.
<u>q.</u>	"Endorser"	Section 554.3204.
<u>r.</u>	"Instrument"	Section 554.3104.
<u>s.</u>	"Issue"	Section 554.3105.
<u>t.</u>	"Issuer"	Section 554.3105.
<u>u.</u>	"Negotiable instrument"	Section 554.3104.
<u>v.</u>	"Negotiation"	Section 554.3201.
<u>w.</u>	"Note"	Section 554.3104.
<u>x.</u>	"Payable at a definite time"	Section 554.3108.
<u>y.</u>	"Payable on demand"	Section 554.3108.
<u>z.</u>	"Payable to bearer"	Section 554.3109.
<u>aa.</u>	"Payable to order"	Section 554.3109.
<u>ab.</u>	"Payment"	Section 554.3602.
<u>ac.</u>	"Person entitled to enforce"	Section 554.3301.
<u>ad.</u>	"Presentment"	Section 554.3501.
<u>ae.</u>	"Reacquisition"	Section 554.3207.
<u>af.</u>	"Special endorsement"	Section 554.3205.
<u>ag.</u>	"Teller's check"	Section 554.3104.
<u>ah.</u>	"Transfer of instrument"	Section 554.3203.
<u>ai.</u>	"Traveler's check"	Section 554.3104.
<u>aj.</u>	"Value"	Section 554.3303.
3. The following definitions in other Articles apply to this Article:		
<u>a.</u>	"Bank"	Section 554.4105.
<u>b.</u>	"Banking day"	Section 554.4104.
<u>c.</u>	"Clearing house"	Section 554.4104.
<u>d.</u>	"Collecting bank"	Section 554.4105.
<u>e.</u>	"Depository bank"	Section 554.4105.
<u>f.</u>	"Documentary draft"	Section 554.4104.
<u>g.</u>	"Intermediary bank"	Section 554.4105.
<u>h.</u>	"Item"	Section 554.4104.
<u>i.</u>	"Payor bank"	Section 554.4105.
<u>j.</u>	"Suspends payments"	Section 554.4104.

Sec. 2. Section 554.3104, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 11. a. "Demand draft" means a writing not signed by a customer as defined in section 554.4104 that is created by a third party under the purported authority of the customer for the purpose of charging the customer's account with a bank. The writing must contain the customer's account number and may contain any of the following:

- (1) The customer's printed or typewritten name;
- (2) A notation that the customer authorized the draft; or
- (3) The statement "no signature required", "authorized on file", "signature on file", or words to that effect.

b. "Demand draft" does not include a check purportedly drawn by and bearing the signature of a fiduciary as defined in section 554.3307.

Sec. 3. Section 554.3309, subsection 1, Code 2005, is amended to read as follows:

1. A person not in possession of an instrument is entitled to enforce the instrument if: ~~(i)~~
 - a. ~~the person was in possession of the instrument and entitled to enforce it seeking to enforce the instrument:~~
 - (1) ~~was entitled to enforce the instrument when loss or~~¹ ~~possession occurred, or~~
 - (2) ~~has directly or indirectly acquired ownership of the instrument from a person who was entitled to the instrument when loss of possession occurred,~~ ~~(ii);~~
 - b. ~~the loss of possession was not the result of a transfer by the person or a lawful seizure;~~ ~~and (iii);~~
 - c. ~~the person cannot reasonably obtain possession of the instrument because the instrument was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.~~

Sec. 4. Section 554.3416, subsection 1, paragraphs d and e, Code 2005, are amended to read as follows:

- d. the instrument is not subject to a defense or claim in recoupment of any party which can be asserted against the warrantor; ~~and~~
- e. the warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer; ~~and~~
- f. if the instrument is a demand draft, creation of the instrument according to the terms on its face was authorized by the person identified as the drawer.

Sec. 5. Section 554.3416, Code 2005, is amended by adding the following new subsection:
NEW SUBSECTION. 5. If a warranty under subsection 1, paragraph “f”, is not given by a transferor under applicable conflict of laws rules, the warranty is not given to that transferor when that transferor is a transferee.

Sec. 6. Section 554.3417, subsection 1, paragraphs b and c, Code 2005, are amended to read as follows:

- b. the draft has not been altered; ~~and~~
- c. the warrantor has no knowledge that the signature of the drawer of the draft is unauthorized; ~~and~~
- d. if the draft is a demand draft, the creation of the demand draft according to the terms on its face was authorized by the person identified as the drawer.

Sec. 7. Section 554.3417, Code 2005, is amended by adding the following new subsections:
NEW SUBSECTION. 7. A demand draft is a check as provided in section 554.3104, subsection 6.

NEW SUBSECTION. 8. If a warranty under subsection 1, paragraph “d”, is not given by a transferor under applicable conflict of laws rules, the warranty is not given to that transferor when that transferor is a transferee.

Sec. 8. NEW SECTION. 554.4111 STATUTE OF LIMITATIONS.

An action to enforce an obligation, duty, or right arising under this Article must be commenced within three years after the cause of action accrues.

Sec. 9. Section 554.4207, subsection 1, paragraphs d and e, Code 2005, are amended to read as follows:

- d. the item is not subject to a defense or claim in recoupment (section 554.3305, subsection 1) of any party that can be asserted against the warrantor; ~~and~~
- e. the warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer; ~~and~~
- f. if the item is a demand draft, creation of the item according to the terms on its face was authorized by the person identified as the drawer.

¹ The word “of” probably intended

Sec. 10. Section 554.4207, Code 2005, is amended by adding the following new subsection:
NEW SUBSECTION. 6. If the warranty under subsection 1, paragraph “f”, is not given by a transferor or collecting bank under applicable conflict of laws rules, the warranty is not given to that transferor when the transferor is a transferee or to any prior collecting bank of that transferee.

Sec. 11. Section 554.4208, subsection 1, paragraphs b and c, Code 2005, are amended to read as follows:

- b. the draft has not been altered; and
- c. the warrantor has no knowledge that the signature of the purported drawer of the draft is unauthorized; and
- d. if the draft is a demand draft, the creation of the demand draft according to the terms on its face was authorized by the person identified as the drawer.**

Sec. 12. Section 554.4208, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 7. A demand draft is a check as provided in section 554.3104, subsection 6.

NEW SUBSECTION. 8. If a warranty under subsection 1, paragraph “d”, is not given by a transferor under applicable conflict of laws rules, the warranty is not given to that transferor when that transferor is a transferee.

Approved March 21, 2005

CHAPTER 12

ABOVEGROUND PETROLEUM STORAGE TANKS — UPGRADE OR CLOSURE COSTS

S.F. 141

AN ACT relating to reimbursement to owners of aboveground petroleum storage tanks for costs associated with the upgrade or permanent closure of aboveground petroleum storage tanks.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 455G.23, subsection 2, paragraphs d and e, Code 2005, are amended to read as follows:

d. Upgrade expenses must be incurred after January 1, 2004, and not later than ~~February 18~~ **December 31**, 2005. Upgrade activities are limited to the installation or improvement of equipment or systems required to comply with 40 C.F.R. § 112, specifically:

- (1) Secondary containment.
- (2) Corrosion protection.
- (3) Loss prevention.
- (4) Security.
- (5) Drainage.
- (6) Removal of noncompliant tanks.

e. Permanent closure activities, including tank system removal, decommission, and dispos-

al, must occur after January 1, 2004, and not later than ~~February 18~~ December 31, 2005, unless the owner is a party to an agreement entered into pursuant to subsection 3 and the tanks meet one of the following criteria:

- (1) All tanks are empty by ~~February 18~~ December 31, 2005.
- (2) All tanks containing petroleum on or after ~~February 18~~ December 31, 2005, meet the requirements of 40 C.F.R. § 112 et seq. and any applicable provisions of chapter 101 and the administrative rules adopted pursuant to chapter 101.

Approved March 21, 2005

CHAPTER 13

COMMERCIAL ESTABLISHMENTS SERVING ALCOHOLIC BEVERAGES — SECURITY — EMPLOYEE TRAINING

H.F. 141

AN ACT relating to the training and certification of designated security personnel working at commercial establishments with a liquor control license or wine or beer permit.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 123.3, subsection 12A, Code 2005, is amended to read as follows:

12A. "Designated security employee" means an agent, ~~contract employee, independent contractor, servant,~~ or employee of a licensee or permittee who ~~is primarily employed for security purposes~~ works in a security position in any capacity at a commercial establishment licensed or permitted under this chapter.

Sec. 2. Section 123.32, subsection 4, Code 2005, is amended to read as follows:

4. SECURITY EMPLOYEE TRAINING. A local authority, as a condition of obtaining and holding a license or permit for on-premises consumption, may require a designated security employee as defined in section 123.3 to be trained and certified in security methods. The training shall include but is not limited to mediation techniques, civil rights or unfair practices awareness as provided in section 216.7, and providing instruction on the proper physical restraint methods used against a person who has become combative.

Approved March 21, 2005

CHAPTER 14

INHERITANCE TAX FRAUD AND TRANSFERS TO MINORS

H.F. 281

AN ACT relating to certain penalties for filing false affidavits and the time for examining and determining a correct return under the state inheritance tax and increasing the amount of property that may be transferred to minors under certain conditions and including a retroactive applicability date provision.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 450.22, subsection 4, Code 2005, is amended to read as follows:

4. If a return is not required to be filed pursuant to subsection 3, and if real estate is involved, one of the individuals with an interest in, or succeeding to an interest in, the real estate shall file an affidavit in the county in which the real estate is located setting forth the legal description of the real estate and the fact that an inheritance tax return is not required pursuant to subsection 3. ~~If a false affidavit is filed, the affiant and the personal representative shall be jointly and severally liable for any tax, penalty, and interest that may have been due. Any otherwise applicable statute of limitations on the assessment and collection of the tax, penalty, and interest shall not apply. Anyone with or succeeding to an interest in real estate who willfully fails to file such an affidavit, or who willfully files a false affidavit, is guilty of a fraudulent practice.~~

Sec. 2. Section 450.53, subsection 2, Code 2005, is amended to read as follows:

2. a. A person in possession of assets to be reported for purposes of taxation, including a personal representative or trustee, who willfully makes a false or fraudulent return, or who willfully fails to pay the tax, or who willfully fails to supply the information, necessary to prepare the return or determine if a return is required, or who willfully fails to make, sign, or file the required return within the time required by law, is guilty of a fraudulent practice. This paragraph subsection does not apply to failure to make, sign, or file a return or failure to pay the tax if a return is not required to be filed pursuant to subsection 1, paragraph “b”.

~~b. If a false affidavit is filed, the affiant and the personal representative shall be jointly and severally liable for any tax, penalty, and interest that may have been due. Any otherwise applicable statute of limitations on the assessment and collection of the tax, penalty, and interest shall not apply.~~

Sec. 3. Section 450.58, subsection 2, Code 2005, is amended to read as follows:

2. If an inheritance tax return is not required to be filed pursuant to section 450.53, subsection 1, paragraph “b”, the personal representative’s final settlement of account need not contain an inheritance tax receipt from the department, but shall, instead, contain the personal representative’s ~~statement, under oath, certification under section 633.35~~ that an inheritance tax return is not required to be filed pursuant to section 450.53, subsection 1, paragraph “b”. ~~If a false affidavit is filed, the affiant and the personal representative shall be jointly and severally liable for any tax, penalty, and interest that may have been due. Any otherwise applicable statute of limitations on the assessment and collection of the tax, penalty, and interest shall not apply.~~

Sec. 4. Section 450.94, subsection 5, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The period for examination and determination of the correct amount of tax to be reported and due under this chapter is unlimited in the case of failure to file a return or the filing of a false or fraudulent return or affidavit.

Sec. 5. Section 565B.7, subsection 3, Code 2005, is amended to read as follows:

3. If ~~no~~ a custodian has not been nominated under section 565B.3, or all persons so nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, a transfer under this section may be made to an adult member of the minor's family or to a trust company unless the property exceeds ~~ten~~ twenty-five thousand dollars in value.

Sec. 6. RETROACTIVE APPLICABILITY DATE. The sections of this Act amending section 450.22, 450.53, and 450.58 apply retroactively to July 1, 2004, for estates of decedents dying on or after that date.

Approved March 21, 2005

CHAPTER 15

REGULATION OF AMPHETAMINE AND METHAMPHETAMINE PRECURSORS

S.F. 169

AN ACT relating to the regulation of substances which are precursors to amphetamine and methamphetamine and providing a penalty and effective dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 124.212, subsection 4, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

4. PRECURSORS TO AMPHETAMINE AND METHAMPHETAMINE. Unless specifically excepted in paragraph "d" or "e" or listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following precursors to amphetamine or methamphetamine, including their salts, optical isomers, and salts of their optical isomers:

- a. Ephedrine.
- b. Phenylpropanolamine.
- c. Pseudoephedrine.¹ A person shall not purchase more than seven thousand five hundred milligrams of pseudoephedrine, either separately or collectively, within a thirty-day period from a pharmacy, unless the person has a prescription for a pseudoephedrine product in excess of that quantity.
- d. Any product that contains three hundred sixty milligrams or less of pseudoephedrine, its salts, optical isomers, and salts of its optical isomers, which is in liquid, liquid capsule, or liquid-filled gel capsule form, is excepted from this schedule and may be warehoused, distributed, and sold over the counter pursuant to section 126.23A.
- e. A pseudoephedrine product warehoused by a distributor located in this state which is warehoused for export to a retailer outside this state is excepted from this schedule. A distributor warehousing and exporting a pseudoephedrine product shall register with the board and comply with any rules adopted by the board and relating to the diversion of pseudoephedrine products from legitimate commerce.

Sec. 2. NEW SECTION. 124.213 PHARMACY PSEUDOEPHEDRINE SALE RESTRICTION — PENALTY.

A person who purchases more than seven thousand five hundred milligrams of pseudo-

¹ See chapter 179, §56 herein

ephedrine from a pharmacy in violation of section 124.212 or a retailer in violation of section 126.23A, either separately or collectively, within a thirty-day period commits a serious misdemeanor.

Sec. 3. Section 126.23A, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

126.23A PSEUDOEPHEDRINE RETAIL RESTRICTIONS.

1. a. A retailer or an employee of a retailer shall not do any of the following:

(1) Sell a product that contains more than three hundred sixty milligrams of pseudoephedrine² in violation of section 124.212, subsection 4.

(2) Knowingly sell more than one package of a product containing pseudoephedrine to a person in a twenty-four-hour period.

(3) Sell a package of a pseudoephedrine product that can be further broken down or subdivided into two or more separate and distinct packages or offer promotions where a pseudoephedrine product is given away for free as part of any purchase transaction.

b. A retailer or an employee of a retailer shall do the following:

(1) Provide for the sale of a pseudoephedrine product in a locked cabinet or behind a sales counter where the public is unable to reach the product and where the public is not permitted.

(2) Require a purchaser to present a government-issued photo identification card identifying the purchaser prior to purchasing a pseudoephedrine product.

(3) Require the purchaser to legibly sign a logbook and to also require the purchaser to print the purchaser's name and address in the logbook.³

(4) Determine the signature in the logbook corresponds with the name on the government-issued photo identification card.

(5) Keep the logbook twelve months from the date of the last entry.

(6) Provide notification in a clear and conspicuous manner in a location where a pseudoephedrine product is offered for sale stating the following:

Iowa law prohibits the over-the-counter purchase of more than one package of a product containing pseudoephedrine in a twenty-four-hour period or of more than seven thousand five hundred milligrams of pseudoephedrine within a thirty-day period. If you purchase a product containing pseudoephedrine, you are required to sign a logbook which may be accessible to law enforcement officers.

2. A purchaser shall not do any of the following:

a. Purchase more than one package of a pseudoephedrine product within a twenty-four-hour period from a retailer.

b. Purchase more than seven thousand five hundred milligrams of pseudoephedrine from a retailer, either separately or collectively, within a thirty-day period.

3. A purchaser shall legibly sign the logbook and also print the purchaser's name and address in the logbook.⁴

4. Enforcement of this section shall be implemented uniformly throughout the state. A political subdivision of the state shall not adopt an ordinance regulating the display or sale of products containing pseudoephedrine. An ordinance adopted in violation of this section is void and unenforceable and any enforcement activity of an ordinance in violation of this section is void.

5. The logbook may be kept in an electronic format upon approval by the department of public safety.

6. A pharmacy that sells a product that contains three hundred sixty milligrams or less of pseudoephedrine on a retail basis shall comply with the provisions of this section with respect to the sale of such product. However, a pharmacy is exempted from the provisions of this section when selling a pseudoephedrine product pursuant to section 124.212.

7. A retailer or an employee of a retailer that reports to any law enforcement agency any alleged criminal activity related to the purchase or sale of pseudoephedrine or who refuses to sell a pseudoephedrine product to a person is immune from civil liability for that conduct, except in cases of willful misconduct.

² See chapter 179, §115 herein

³ See chapter 179, §116 herein

⁴ See chapter 179, §117 herein

8. If a retailer or an employee of a retailer violates any provision of this section, a city or county may assess a civil penalty against the retailer upon hearing and notice as provided in section 126.23B.

9. An employee of a retailer who commits a violation of subsection 1 or a purchaser who commits a violation of subsection 2 commits a simple misdemeanor punishable by a scheduled fine under section 805.8C, subsection 6.

10. As used in this section, "retailer" means a person or business entity engaged in this state in the business of selling products on a retail basis. An "employee of a retailer" means any employee, contract employee, or agent of the retailer.

Sec. 4. NEW SECTION. 126.23B CIVIL PENALTY.

1. A city or a county may enforce section 126.23A, after giving the retailer an opportunity to be heard upon ten days' written notice by restricted certified mail stating the alleged violation and the time and place at which the retailer may appear and be heard.

2. For a violation of section 126.23A by the retailer or an employee of the retailer a civil penalty shall be assessed against the retailer as follows:

a. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars.

b. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars.

c. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of two thousand dollars. The retailer may also be prohibited from selling pseudoephedrine for up to three years from the date of assessment of the civil penalty.

d. For a fourth or subsequent violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of three thousand dollars. On a fourth or subsequent violation, the retailer shall be prohibited from selling pseudoephedrine products for three years from the date of the assessment of the civil penalty.

3. The city or county that takes legal action against a retailer under this section shall report the assessment of a civil penalty to the department of public safety within thirty days of the penalty being assessed.

4. The civil penalty shall be collected by the clerk of the district court and shall be distributed as provided in section 602.8105, subsection 4.

Sec. 5. Section 602.8105, subsection 4, Code 2005, is amended to read as follows:

4. The clerk of the district court shall collect a civil penalty assessed against a retailer pursuant to section ~~126.23A~~ 126.23B. Any moneys collected from the civil penalty shall be distributed to the state or a political subdivision of the state as provided in city or county that brought the enforcement action for a violation of section 126.23A, ~~subsection 7~~.

Sec. 6. Section 714.7C, Code 2005, is amended to read as follows:

714.7C THEFT OF PSEUDOEPHEDRINE — ENHANCEMENT.

Notwithstanding section 714.2, subsection 5, a person who commits a simple misdemeanor theft of ~~more than two packages~~ a product containing any of the following pseudoephedrine ~~from a retailer as defined in section 126.23A~~ commits a serious misdemeanor:

1. ~~Pseudoephedrine as the product's sole active ingredient.~~

2. ~~Pseudoephedrine in combination with other active ingredients.~~

~~A simple misdemeanor theft of more than two packages containing pseudoephedrine as the products' sole active ingredient which are in liquid form does not constitute a serious misdemeanor under this section.~~

Sec. 7. Section 804.21, subsection 1, Code 2005, is amended to read as follows:

1. A person arrested in obedience to a warrant shall be taken without unnecessary delay before the nearest or most accessible magistrate. The officer shall at the same time deliver to the magistrate the warrant with the officer's return endorsed on it and subscribed by the officer with the officer's official title. However, this section, and sections 804.22 and 804.23, do not preclude the release of an arrested person within the period of time the person would other-

wise remain incarcerated while waiting to be taken before a magistrate if the release is pursuant to pretrial release guidelines or a bond schedule promulgated by the judicial council, unless the person is charged with manufacture, delivery, possession with intent to⁵ deliver, or distribution of methamphetamine. If, however, a person is released pursuant to pretrial release guidelines, a magistrate must, within twenty-four hours of the release, or as soon as practicable on the next subsequent working day of the court, either approve in writing of the release, or disapprove of the release and issue a warrant for the person's arrest.

Sec. 8. Section 804.22, unnumbered paragraph 2, Code 2005, is amended to read as follows:

This section and the rules of criminal procedure do not affect the provisions of chapter 805 authorizing the release of a person on citation or bail prior to initial appearance, unless the person is charged with manufacture, delivery, possession with intent to⁶ deliver, or distribution of methamphetamine. The initial appearance of a person so released shall be scheduled for a time not more than thirty days after the date of release.

Sec. 9. Section 805.8C, subsection 6, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

6. PSEUDOEPHEDRINE SALES VIOLATIONS. For violations of section 126.23A, subsection 1, by an employee of a retailer, or for violations of section 126.23A, subsection 2,⁷ by a purchaser, the scheduled fine is as follows:

- a. If the violation is a first offense, the scheduled fine is one hundred dollars.
- b. If the violation is a second offense, the scheduled fine is two hundred fifty dollars.
- c. If the violation is a third or subsequent offense, the scheduled fine is five hundred dollars.

Sec. 10. Section 811.2, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Any bailable defendant who is charged with unlawful possession, manufacture, delivery, or distribution of a controlled substance or other drug under chapter 124 and is ordered released shall be required, as a condition of that release, to submit to a substance abuse evaluation and follow any recommendations proposed in the evaluation for appropriate substance abuse treatment. However, if a bailable defendant is charged with manufacture, delivery, possession with the intent to⁸ deliver, or distribution of methamphetamine, its salts, optical isomers, and salts of its optical isomers, the defendant shall, in addition to a substance abuse evaluation, remain under supervision and be required to undergo random drug tests as a condition of release.

Sec. 11. Section 811.2, subsection 3, Code 2005, is amended to read as follows:

3. RELEASE AT INITIAL APPEARANCE. This chapter does not preclude the release of an arrested person as authorized by section 804.21, unless the arrested person is charged with manufacture, delivery, possession with the intent to⁹ deliver, or distribution of methamphetamine.

Sec. 12. RETAILER COMPLIANCE. Be it deemed necessary for public safety purposes, retailers shall begin to take steps to come into compliance with the provisions of this Act as soon as possible.

Sec. 13. DRUG POLICY COORDINATOR — REPORT. The drug policy coordinator shall report, in a joint meeting, to the committee on judiciary of the senate and the committee on public safety of the house of representatives in January 2006 and in January 2007, the effects of this Act on methamphetamine abuse and related criminal activity.

⁵ See chapter 174, §21, 25 herein

⁶ See chapter 174, §22, 25 herein

⁷ See chapter 179, §140 herein

⁸ See chapter 174, §23, 25 herein

⁹ See chapter 174, §24, 25 herein

Sec. 14. EFFECTIVE DATES. This Act takes effect sixty days from the date of enactment or July 1, 2005, whichever is earlier. However, the portion of the section of this Act amending section 124.212, subsection 4, which makes all ephedrine products schedule V controlled substances, and the sections of this Act amending sections 804.21, 804.22, and 811.2, take effect upon enactment.

Approved March 22, 2005

CHAPTER 16

LIFE SCIENCE ENTERPRISES — AGRICULTURAL LAND

S.F. 205

AN ACT providing for life science enterprises authorized to hold agricultural land, making penalties applicable, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 10B.4, subsection 2, paragraph g, Code 2005, is amended to read as follows:

g. If the reporting entity is a life science enterprise, as provided in chapter 10C, as that chapter exists on or before June 30, 2004 2005, the total amount of commercial sale of life science products and products other than life science products which are produced from the agricultural land held by the life science enterprise.

Sec. 2. Section 10C.6, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. A life science enterprise may acquire or hold agricultural land, notwithstanding section 10C.5 ~~as that section exists in the 2005 Code~~, if all of the following apply:

(1) The life science enterprise acquires the agricultural land on or before June 30, 2008.

(2) The enterprise acquires or holds the agricultural land pursuant to chapter 10C ~~as that chapter exists in the 2005 Code~~.

(3) The economic development board has approved a life science enterprise plan filed on or before June 30, 2004 2005, with the board. The enterprise must acquire or hold the agricultural land pursuant to the plan which may be amended at any time and approved by the board pursuant to section 15.104.

Sec. 3. Section 10C.6, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A person who is a successor in interest to a life science enterprise may acquire or hold agricultural land, notwithstanding section 10C.5 ~~as that section exists in the 2003 Code or 2003 Code Supplement~~, if all of the following apply:

Sec. 4. Section 10C.6, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. The person meets the qualifications of a life science enterprise and acquires or holds the agricultural land as provided in chapter 10C ~~as that chapter exists in the 2003 Code or 2003 Code Supplement~~.

Sec. 5. Section 15.104, subsection 4, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Review and approve or disapprove a life science enterprise plan or amendments to that plan as provided in chapter 10C as that chapter exists on or before June 30, 2004 ~~2005~~,¹ and according to rules adopted by the board. A life science plan shall make a reasonable effort to provide for participation by persons who are individuals or family farm entities actively engaged in farming as defined in section 10.1. The persons may participate in the life science enterprise by holding an equity position in the life science enterprise or providing goods or service to the enterprise under contract. The plan must be filed with the board not later than June 30, 2004 ~~2005~~. The life science enterprise may file an amendment to a plan at any time. A life science enterprise is not eligible to file a plan, unless the life science enterprise files a notice with the board. The notice shall be a simple statement indicating that the life science enterprise may file a plan as provided in this section. The notice must be filed with the board not later than June 30, 2004 ~~1, 2005~~. The notice, plan, or amendments shall be submitted by a life science enterprise as provided by the board. The board shall consult with the department of agriculture and land stewardship during its review of a life science plan or amendments to that plan. The plan shall include information regarding the life science enterprise as required by rules adopted by the board, including but not limited to all of the following:

Sec. 6. CODE EDITOR DIRECTIVE. The Code editor shall, upon the repeal of sections 10C.1 through 10C.4, pursuant to section 10C.5, insert in section 10C.6 references to the Code or Code Supplement in which the most recent amendments to Code chapter 10C or portions thereof, as applicable, were incorporated.

Sec. 7. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 6, 2005

CHAPTER 17

DUAL PARTY RELAY SERVICE FUNDING

S.F. 264

AN ACT relating to the funding of the dual party relay service through assessments on telecommunications carriers providing telephone service.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 477C.7, Code 2005, is amended to read as follows:
477C.7 FUNDING.

1. The board shall impose an annual assessment to fund the programs described in this chapter upon all telecommunications carriers providing service in the state as follows:

1. 2. The total assessment shall be allocated one-half to local exchange telephone utilities and one-half to the following telephone utilities as follows:

a. Wireless communications service providers shall be assessed three cents per month for each wireless communications service number provided in this state.

¹ See chapter 179, §108 herein

b. (1) The remainder of the assessment shall be allocated one-half to local exchange telephone utilities and one-half to the following:

- a. (a) Interexchange carriers.
- b. (b) Centralized equal access providers.
- c. (c) Alternative operator services companies.

2. (2) The assessment shall be levied allocated proportionally based upon revenues from all intrastate regulated, deregulated, and exempt telephone services under sections 476.1 and 476.1D.

3. The telephone utilities telecommunications carriers shall remit the assessed amounts quarterly to a special fund, as defined under section 8.2, subsection 9. The moneys in the fund are appropriated solely to plan, establish, administer, and promote the relay service and equipment distribution programs.

4. The telephone utilities telecommunications carriers subject to assessment shall provide the information requested by the board necessary for implementation of the assessment.

5. The local exchange telephone utilities shall not recover from intrastate access charges any portion of such utilities assessment imposed under this section.

Approved April 6, 2005

CHAPTER 18

IDENTITY THEFT

S.F. 270

AN ACT relating to identity theft including criminal violations and damages recoverable in a civil action, providing for forfeiture of property and for certain rights of financial institutions, and providing for civil remedies.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 614.4A IDENTITY THEFT.

In actions for relief on the ground of identity theft under section 714.16B, the cause of action shall not be deemed to have accrued until the identity theft complained of is discovered by the party aggrieved.

Sec. 2. Section 714.16B, Code 2005, is amended to read as follows:

714.16B IDENTITY THEFT — CIVIL CAUSE OF ACTION.

In addition to any other remedies provided by law, a person as defined under section 714.16, subsection 1, suffering a pecuniary loss as a result of an identity theft by another person under section 715A.8, or a financial institution on behalf of an account holder suffering a pecuniary loss as a result of an identity theft by another person under section 715A.8, may bring an action against such other person to recover all of the following:

- 1. One Five thousand dollars or three times the actual damages, whichever is greater.
- 2. Reasonable costs incurred due to the violation of section 715A.8, including all of the following:
 - a. Costs for repairing the victim's credit history or credit rating.
 - b. Costs incurred for bringing a civil or administrative proceeding to satisfy a debt, lien, judgment, or other obligation of the victim.

c. Punitive damages, attorney fees, and court costs.

For purposes of this section, "financial institution" means the same as defined in section 527.2, and includes an insurer organized under Title XIII, subtitle 1, of this Code, or under the laws of any other state or the United States.

Sec. 3. Section 715A.8, subsection 1, Code 2005, is amended to read as follows:

1. a. For purposes of this section, "identification information" means includes, but is not limited to, the name, address, date of birth, telephone number, driver's license number, nonoperator's identification card number, social security number, student identification number, military identification number, alien identification or citizenship status number, employer identification number, signature, electronic mail signature, electronic identifier or screen name, biometric identifier, genetic identification information, access device, logo, symbol, trademark, place of employment, employee identification number, parent's legal surname prior to marriage, demand deposit account number, savings or checking account number, or credit card number of a person.

b. For purposes of this section, "financial institution" means the same as defined in section 527.2, and includes an insurer organized under Title XIII, subtitle 1, of this Code, or under the laws of any other state or the United States.

Sec. 4. Section 715A.8, Code 2005, is amended by adding the following new subsections:
NEW SUBSECTION. 5. Violations of this section shall be prosecuted in any of the following venues:

- a. In the county in which the violation occurred.
- b. If the violation was committed in more than one county, or if the elements of the offense were committed in more than one county, then in any county where any violation occurred or where an element of the offense occurred.
- c. In the county where the victim resides.
- d. In the county where the property that was fraudulently used or attempted to be used was located at the time of the violation.

NEW SUBSECTION. 6. Any real or personal property obtained by a person as a result of a violation of this section, including but not limited to any money, interest, security, claim, contractual right, or financial instrument that is in the possession of the person, shall be subject to seizure and forfeiture pursuant to chapter 809A. A victim injured by a violation of this section, or a financial institution that has indemnified a victim injured by a violation of this section, may file a claim as an interest holder pursuant to section 809A.11 for payment of damages suffered by the victim including costs of recovery and reasonable attorney fees.

NEW SUBSECTION. 7. A financial institution may file a complaint regarding a violation of this section on behalf of a victim and shall have the same rights and privileges as the victim if the financial institution has indemnified the victim for such violations.

NEW SUBSECTION. 8. Upon the request of a victim, a peace officer in any jurisdiction described in subsection 5 shall take a report regarding an alleged violation of this section and shall provide a copy of the report to the victim. The report may also be provided to any other law enforcement agency in any of the jurisdictions described in subsection 5.

Approved April 6, 2005

CHAPTER 19**SUBSTANTIVE CODE CORRECTIONS***H.F. 227*

AN ACT relating to statutory corrections which may adjust language to reflect current practices, insert earlier omissions, delete redundancies and inaccuracies, delete temporary language, resolve inconsistencies and conflicts, update ongoing provisions, or remove ambiguities, and including effective and retroactive applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 2B.5, subsection 3, Code 2005, is amended to read as follows:

3. Cause to be published annually a correct list of state officers and deputies; members of boards and commissions; justices of the supreme court, judges of the court of appeals, and judges of the district courts including district associate judges and judicial magistrates; and members of the general assembly. ~~The offices office of the governor and secretary of state~~ shall cooperate in the preparation of the list.

Sec. 2. Section 2B.12, subsection 8, Code 2005, is amended to read as follows:

8. A Code or Code Supplement may include appropriate tables showing the disposition of Acts of the general assembly, the corresponding sections from edition to edition of a Code or Code Supplement, and other reference material as determined by the Iowa Code editor in accordance with policies of the legislative council.

Sec. 3. Section 2B.17, subsection 2, Code 2005, is amended to read as follows:

2. The Acts of each general assembly shall be known as "Acts of the . . . General Assembly, . . . Session, Chapter (or File No.) . . . , Section" (inserting the appropriate numbers) and shall be cited as ". . . Iowa Acts, chapter (or File No.). . . , section" (inserting the appropriate year, chapter or file number, and section number).

Sec. 4. Section 2C.13, Code 2005, is amended to read as follows:

2C.13 NO INVESTIGATION — NOTICE TO COMPLAINANT.

If the citizens' aide decides not to investigate, the complainant shall be informed of the reasons for the decision. If the citizens' aide decides to investigate, the complainant and the agency shall be notified of the decision. After completing consideration of a complaint, whether or not it has been investigated, the citizens' aide shall without delay inform the complainant of the fact, and if appropriate, shall inform the ~~administrative~~ agency involved. The citizens' aide shall on request of the complainant, and as appropriate, report the status of the investigation to the complainant.

Sec. 5. Section 2C.14, Code 2005, is amended to read as follows:

2C.14 INSTITUTIONALIZED COMPLAINANTS.

A letter to the citizens' aide from a person in a correctional institution, a hospital, or other institution under the control of an ~~administrative~~ agency shall be immediately forwarded, unopened to the citizens' aide by the institution where the writer of the letter is a resident. A letter from the citizens' aide to such a person shall be immediately delivered, unopened to the person.

Sec. 6. Section 2C.17, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The citizens' aide may publish the conclusions, recommendations, and suggestions and transmit them to the governor, or the general assembly or any of its committees. When publishing an opinion adverse to an ~~administrative~~ agency or official the citizens' aide shall, unless excused by the agency or official affected, include with the opinion any unedited reply made by the agency.

Sec. 7. Section 3.3, Code 2005, is amended to read as follows:

3.3 HEADNOTES AND HISTORICAL REFERENCES.

Proper headnotes may be placed at the beginning of a section of a bill or a Code section, and at the end of ~~the a Code~~ section there may be placed a reference to the section number of the Code, or any Iowa Act from which the matter of the bill Code section was taken, ~~but, However,~~ except as provided in the uniform commercial code, section 554.1109, neither said headnotes nor said historical references shall be considered as a part of the law as enacted.

Sec. 8. Section 7A.27, unnumbered paragraph 2, Code 2005, is amended to read as follows:

When such publications, ~~except supplements to the Iowa administrative code~~, paid for by public funds furnished by the state, contain reprints of statutes or rules, or both, they shall be sold and distributed at cost by the department ordering the publication if the cost per publication is one dollar or more, unless a central library or depository is established. Such publications shall be obtained from the director of the department of administrative services on requisition by the department ordering the publication, and the selling price, if any, shall be determined by the director of the department of administrative services by dividing the total cost of printing, paper, distribution, and binding by the number printed. The price shall be set at the nearest multiple of ten to the quotient thus obtained. Distribution of such publications shall be made by the director gratis to public officers, purchasers of licenses from state departments required by statute, and departments. Funds from the sale of such publications shall be deposited monthly in the general fund of the state except the cost of distribution shall be deposited in the printing revolving fund established in section 8A.345. This section does not apply to the printed versions of the official legal publications listed in section 2A.5.

Sec. 9. Section 8A.205, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. Establish standards, consistent with other state law, for the implementation of electronic commerce, including standards for ~~digital~~ electronic signatures, electronic currency, and other items associated with electronic commerce.

Sec. 10. Section 8A.316, subsection 1, Code 2005, is amended to read as follows:

1. ~~Revise~~ Develop its procedures and specifications for the purchase of lubricating oil and industrial oil to eliminate exclusion of recycled oils and any requirement that oils be manufactured from virgin materials.

Sec. 11. Section 9E.12, subsection 4, Code 2005, is amended to read as follows:

4. A certificate of a notarial act on an instrument to be recorded must also comply with the requirements of section 331.602, ~~subsection 1~~ 331.606B.

Sec. 12. Section 12.82, subsection 4, paragraph d, Code 2005, is amended to read as follows:

d. To assure the continued solvency of any bonds secured by the bond reserve fund, provision is made in paragraph ~~"a"~~ "c" for the accumulation in each bond reserve fund of an amount equal to the bond reserve fund requirement for the fund. In order further to assure maintenance of the bond reserve funds, the treasurer shall, on or before January 1 of each calendar year, make and deliver to the governor the treasurer's certificate stating the sum, if any, required to restore each bond reserve fund to the bond reserve fund requirement for that fund. Within thirty days after the beginning of the session of the general assembly next following the delivery of the certificate, the governor shall submit to both houses printed copies of a budget including the sum, if any, required to restore each bond reserve fund to the bond reserve fund requirement for that fund. Any sums appropriated by the general assembly and paid to the treasurer pursuant to this subsection shall be deposited by the treasurer in the applicable bond reserve fund.

Sec. 13. Section 13B.9, subsection 2, Code 2005, is amended to read as follows:

2. An attorney appointed under this section is not liable to a person represented by the attorney for damages as a result of a conviction in a criminal case unless the court determines in a postconviction proceeding or on direct appeal that the person's conviction resulted from ineffective assistance of counsel, and the ineffective assistance of counsel is the proximate cause of the damage. In juvenile or civil proceedings, an attorney appointed under this section is not liable to a person represented by the attorney for damages unless it has been determined that the attorney has provided ineffective assistance of counsel and the ineffective assistance of counsel ~~claim~~ is the proximate cause of the damage.

Sec. 14. Section 15.331C, Code 2005, is amended to read as follows:

15.331C CORPORATE TAX CREDIT FOR CERTAIN SALES TAXES PAID BY THIRD-PARTY DEVELOPER.

1. An eligible business or a supporting business may claim a corporate tax credit in an amount equal to the sales and use taxes paid by a third-party developer under chapters 422 and chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility within the economic development area of the eligible business or supporting business. Taxes attributable to intangible property and furniture and furnishings shall not be included, but taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center shall be included. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. An eligible business may elect to receive a refund of all or a portion of an unused tax credit.

2. A third-party developer shall state under oath, on forms provided by the department of economic development, the amount of taxes paid as described in subsection 1 and shall submit such forms to the department. The taxes paid shall be itemized to allow identification of the taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center. After receiving the form from the third-party developer, the department shall issue a tax credit certificate to the eligible business or supporting business equal to the sales and use taxes paid by a third-party developer under chapters 422 and chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility. The department shall also issue a tax credit certificate to the eligible business or supporting business equal to the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center. The aggregate combined total amount of tax refunds under section 15.331A for taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center and of tax credit certificates issued by the department for the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center shall not exceed five hundred thousand dollars in a fiscal year. If an applicant for a tax credit certificate does not receive a certificate for the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center, the application shall be considered in succeeding fiscal years. The eligible business or supporting business shall not claim a tax credit under this section unless a tax credit certificate issued by the department of economic development is attached to the taxpayer's tax return for the tax year for which the tax credit is claimed. A tax credit certificate shall contain the eligible business's or supporting business's name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue.

Sec. 15. Section 22.1, subsection 3, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Public records" also includes all records relating to

the investment of public funds including but not limited to investment policies, instructions, trading orders, or contracts, whether in the custody of the public body responsible for the public funds or a fiduciary or other third party.

Sec. 16. Section 22.7, subsection 38, paragraph a, Code 2005, is amended to read as follows:

a. Records containing information that would disclose, or might lead to the disclosure of, private keys used in a ~~digital~~ an electronic signature or other similar technologies as provided in chapter 554D.

Sec. 17. Section 28M.3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A regional transit district shall have all the rights, powers, and duties of a county enterprise pursuant to sections 331.462 through 331.469 as they relate to the purpose for which the regional transit district is created, including the authority to issue revenue bonds for the establishment, construction, reconstruction, repair, equipping, remodeling, extension, maintenance, and operation of works, vehicles, and facilities of a regional transit district. In addition, a regional transit district, with the approval of the board of supervisors, may issue general obligation bonds as an essential county purpose pursuant to chapter 331, division IV, part 3, for the establishment, construction, reconstruction, repair, equipping, remodeling, extension, maintenance, and operation of works, vehicles, and facilities of a regional transit district. Such general obligation bonds are payable from the property tax levy authorized in section 28M.5.

Sec. 18. Section 48A.11, subsection 8, Code 2005, is amended to read as follows:

8. A voter registration application lacking the registrant's name, sex, date of birth, or residence address or description shall not be processed. A voter registration application lacking the registrant's Iowa driver's license number, Iowa nonoperator's identification card number, or the last four digits of the registrant's social security number shall not be processed. A registrant whose registration is not processed pursuant to this subsection shall be notified pursuant to section 48A.26, subsection 3. A registrant who does not have an Iowa driver's license number, an Iowa nonoperator's identification number, or a social security number and who notifies the registrar of such shall be assigned a unique identifying number that shall serve to identify the registrant for voter registration purposes.

Sec. 19. Section 48A.25A, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Upon receipt of an application for voter registration by mail, the state registrar of voters shall compare the Iowa driver's license number, the Iowa nonoperator's identification card number, or the last four numerals of the social security number provided by the registrant with the records of the state department of transportation. To be verified, the voter registration record shall contain the same name, date of birth, and Iowa driver's license number or Iowa nonoperator's identification card number or whole or partial social security number as the records of the state department of transportation. If the information cannot be verified, the application shall be rejected and the registrant shall be notified of the reason for the rejection. If the information can be verified, a record shall be made of the verification and the application shall be accepted.

Sec. 20. Section 48A.38, subsection 1, paragraph f, Code 2005, is amended to read as follows:

f. The county commissioner of registration and the state registrar of voters shall remove a voter's whole or partial social security number, as applicable, Iowa driver's license number, or Iowa nonoperator's identification card number from a voter registration list prepared pursuant to this section.

Sec. 21. Section 50.20, Code 2005, is amended to read as follows:

50.20 NOTICE OF NUMBER OF PROVISIONAL BALLOTS.

The commissioner shall compile a list of the number of provisional ballots cast under section 49.81 in each precinct. The list shall be made available to the public as soon as possible, but in no case later than nine o'clock a.m. on the second day following the election. Any elector may examine the list during normal office hours, and may also examine the affidavit envelopes bearing the ballots of challenged electors until the reconvening of the special precinct board as required by this chapter. Only those persons so permitted by section 53.23, subsection 4, shall have access to the affidavits while that board is in session. Any elector may present written statements or documents, supporting or opposing the counting of any special provisional ballot, at the commissioner's office until the reconvening of the special precinct board.

Sec. 22. Section 50.22, unnumbered paragraphs 1 through 3, Code 2005, are amended to read as follows:

Upon being reconvened, the special precinct election board shall review the information upon the envelopes bearing the special provisional ballots, and all evidence submitted in support of or opposition to the right of each challenged person to vote in the election. The board may divide itself into panels of not less than three members each in order to hear and determine two or more challenges simultaneously, but each panel shall meet the requirements of section 49.12 as regards political party affiliation of the members of each panel.

The decision to count or reject each ballot shall be made upon the basis of the information given on the envelope containing the special provisional ballot, the evidence concerning the challenge, the registration and the returned receipts of registration.

If a special provisional ballot is rejected, the person casting the ballot shall be notified by the commissioner within ten days of the reason for the rejection, on the form prescribed by the state commissioner pursuant to section 53.25, and the envelope containing the special provisional ballot shall be preserved unopened and disposed of in the same manner as spoiled ballots. The special provisional ballots which are accepted shall be counted in the manner prescribed by section 53.24. The commissioner shall make public the number of special provisional ballots rejected and not counted, at the time of the canvass of the election.

Sec. 23. Section 53.23, subsections 5 and 6, Code 2005, are amended to read as follows:

5. The special precinct election board shall preserve the secrecy of all absentee and special provisional ballots. After the affidavits on the envelopes have been reviewed and the qualifications of the persons casting the ballots have been determined, those that have been accepted for counting shall be opened. The ballots shall be removed from the affidavit envelopes without being unfolded or examined, and then shall be thoroughly intermingled, after which they shall be unfolded and tabulated. If secrecy folders or envelopes are used with special provisional paper ballots, the ballots shall be removed from the secrecy folders after the ballots have been intermingled.

6. The special precinct election board shall not release the results of its tabulation on election day until all of the ballots it is required to count on that day have been counted, nor release the tabulation of challenged provisional ballots accepted and counted under chapter 50 until that count has been completed.

Sec. 24. Section 53.24, Code 2005, is amended to read as follows:

53.24 COUNTIES USING VOTING MACHINES.

In counties which provide the special precinct election board with voting machines, the absentee ballot envelopes shall be opened by the board and the ballots shall, without being unfolded, be thoroughly intermingled, after which they shall be unfolded and, under the personal supervision of precinct election officials of each of the political parties, be registered on voting machines the same as if the absent voter had been present and voted in person, except that a tally of the write-in votes may be kept in the tally list rather than on the machine. When two or more political subdivisions in the county are holding separate elections simultaneously, the

commissioner may arrange the machine so that the absentee and special provisional ballots for more than one election may be recorded on the same machine.

Sec. 25. Section 53.31, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The commissioner shall immediately send a written notice to the elector whose qualifications have been challenged. The notice shall be sent to the address at which the challenged elector is registered to vote. If the ballot was mailed to the challenged elector, the notice shall also be sent to the address to which the ballot was mailed if it is different from the elector's registration address. The notice shall advise the elector of the reason for the challenge, the date and time that the special precinct election board will reconvene to determine challenges, and that the elector has the right to submit written evidence of the elector's qualifications. The notice shall include the telephone number of the commissioner's office. If the commissioner has access to a facsimile machine, the notice shall include the telephone number of the facsimile machine. As far as possible, other procedures for considering special provisional ballots shall be followed.

Sec. 26. Section 85.34, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

v. If it is determined that an injury has produced a disability less than that specifically described in ~~said the schedule described in paragraphs "a" through "t"~~, compensation shall be paid during the lesser number of weeks of disability determined, as will not exceed a total amount equal to the same percentage proportion of said scheduled maximum compensation.

Sec. 27. Section 97.51, subsection 1, paragraphs b and c, Code 2005, are amended to read as follows:

b. Under the direction of the ~~department~~ system and as designated by the ~~department~~ system, invest such portion of said trust funds as are not needed for current payment of benefits, in interest-bearing securities issued by the United States, or interest-bearing bonds issued by the state of Iowa, or bonds issued by counties, school districts or general obligations or limited levy bonds issued by municipal corporations in this state as authorized by law; also to sell and dispose of same when needed for the payment of benefits.

c. To disburse the trust funds upon warrants drawn by the director of the department of administrative services pursuant to the order of the ~~Iowa public employees' retirement system created in section 97B.1.~~

Sec. 28. Section 97.51, subsections 2, 3, 4, and 6, Code 2005, are amended to read as follows:

2. All moneys which are paid or deposited into this fund are hereby appropriated and made available to the ~~department~~ system to be used only for the purposes herein provided:

a. To be used by the ~~department~~ system for the payment of claims for benefits.

b. To be used by the ~~department~~ system for the payment in accordance with any agreement with the federal social security administration of amounts required to obtain retroactive federal social security coverage of Iowa public employees, dating from January 1, 1951, and for the payment of refunds which were authorized by the provisions of section 97.7, Code 1950, and for the payment of such other refunds to employees as may be authorized by the general assembly, and such other purposes as may be authorized by the general assembly.

3. The ~~Iowa public employees' retirement system created in section 97B.1~~ shall administer the Iowa old-age and survivors' insurance liquidation fund and shall also administer all other provisions of this chapter.

4. Any public employee subject to coverage under the provisions of chapter 97, Code 1950, as amended, in public service as of June 30, 1953, and who has not applied for and qualified for benefit payments under the provisions of chapter 97, Code 1950, as amended, who had con-

tributed to the Iowa old-age and survivors' insurance fund prior to the repeal of said chapter 97, as amended, shall be entitled to a refund of contributions paid into the Iowa old-age and survivors' insurance fund by such employee without interest, but there shall be deducted from the amount of any such refund any amount which has been or will be paid in the employee's behalf as the employee's contribution as an employee to obtain retroactive federal social security coverage. Any former public employee not in public service as of June 30, 1953, who has contributed to the Iowa old-age and survivors' insurance fund, the employee's beneficiaries or estate, when no benefit has been paid under chapter 97, Code 1950, based upon such employee's prior record, shall be entitled to a refund of seventy-five percent of all contributions paid by the employee into said fund, without interest. The ~~department system~~ shall prescribe rules in regard to the granting of such refunds. In the event of such refund any individual receiving the same shall be deemed to have waived any and all rights in behalf of the individual or any beneficiary or the individual's estate to further benefits under the provisions of chapter 97, Code 1950, as amended.

6. In the payment of any benefits in the future, as a result of the provisions of chapter 97, Code 1950, as amended, the ~~department system~~ shall follow the same procedure as provided by said chapter 97, as amended, as though said chapter had not been repealed, except the requirements of section 97.21, subsection 4, paragraph "a", and 97.21, subsection 5, shall not be applicable, but no primary benefit, based upon employment prior to June 30, 1953, shall be paid to any individual for any month during which the individual receives compensation for work in any position which would have been subject to coverage under the provisions of said chapter 97, as amended, if the individual's earnings for such month exceed one hundred dollars, nor shall any benefit be paid to a wife or dependent of such employee for such months, except that after a retired member reaches the age of seventy-two years, the member, the member's wife and dependents shall be entitled to the benefits of this chapter regardless of the amount earned.

Sec. 29. Section 97B.49C, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. "Eligible service" means membership and prior service as a sheriff ~~and or~~ deputy sheriff under this section. In addition, eligible service includes membership and prior service as a marshal in a city not covered under chapter 400 or a fire fighter or police officer of a city not participating in the retirement systems established in chapter 410 or 411, and as an airport fire fighter prior to July 1, 1994.

Sec. 30. Section 99B.7, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. A person wishing to conduct games and raffles pursuant to this section as a qualified organization shall submit an application and a license fee of one hundred fifty dollars. The annual license fee for a statewide raffle license shall be one hundred fifty dollars. However, upon submission of an application accompanied by a license fee of fifteen dollars, a person may be issued a limited license to conduct all games and raffles pursuant to this section at a specified location and during a specified period of fourteen consecutive calendar days, except that a bingo occasion may only be conducted once per each seven consecutive calendar days of the specified period. In addition, a qualified organization may be issued a limited license to conduct raffles pursuant to this section for a period of ninety days for a license fee of forty dollars or for a period of one hundred eighty days for a license fee of seventy-five dollars. For the purposes of this paragraph, a limited license is deemed to be issued on the first day of the period for which the license is issued.

Sec. 31. Section 99D.24, subsection 3, Code 2005, is amended to read as follows:

3. A person wagering or accepting a wager at any location outside the ~~betting enclosure wa-~~
gering area is subject to the penalties in section 725.7.

Sec. 32. Section 135.144, subsection 11, Code 2005, is amended to read as follows:

11. If a public health disaster or other public health emergency situation exists which poses an imminent threat to the public health, safety, and welfare, the department, in conjunction with the governor, may provide financial assistance, from funds appropriated to the department that are not otherwise encumbered, to political subdivisions as needed to alleviate the disaster or the emergency. If the department does not have sufficient ~~encumbered unencumbered~~ funds, the governor may request that the executive council, pursuant to the authority of section 7D.29, commit sufficient funds, up to one million dollars, that are not otherwise encumbered from the general fund, as needed and available, for the disaster or the emergency. If additional financial assistance is required in excess of one million dollars, approval by the legislative council is also required.

Sec. 33. Section 136A.5, subsection 3, Code 2005, is amended to read as follows:

3. This section does not apply if ~~the~~ a parent objects to the screening. If a parent objects to the screening of a newborn, the attending health care provider shall document the refusal in the newborn's medical record and shall obtain a written refusal from the parent and report the refusal to the department as provided by rule of the department.

Sec. 34. Section 166.1, subsection 3, Code 2005, is amended to read as follows:

3. "Manufacturer" includes every person engaged in the preparation, at any stage of the process, of biological products, except those engaged in such preparation ~~in the biological laboratory in the Iowa State University of science and technology, or in any other state or governmental institution.~~

Sec. 35. Section 174.15, Code 2005, is amended to read as follows:

174.15 PURCHASE AND MANAGEMENT.

Title to land purchased or received for purposes of conducting a fair event shall be taken in the name of the county or a fair. However, the board of supervisors shall place the land under the control and management of a fair. The fair may act as agent for the county in the erection of buildings, and maintenance of the fairgrounds, including the buildings and improvements constructed on the grounds. Title to new buildings or improvements shall be taken in the name of the county or a fair. However, the county is not liable for the improvements or expenditures for them.

Sec. 36. Section 225C.42, subsection 2, paragraph c, Code 2005, is amended to read as follows:

c. An analysis of the extent to which payments enabled children to remain in their homes. The analysis shall include but is not limited to all of the following items concerning children affected by the payments: the number and percentage of children who remained with their families; the number and percentage of children who returned to their home from an out-of-home placement and the type of placement from which the children returned; and the number of children who received an out-of-home placement during the fiscal year period and the type of placement.

Sec. 37. Section 235A.15, subsection 2, paragraph d, subparagraph (3), Code 2005, is amended to read as follows:

(3) To a court or ~~administrative agency~~ the department hearing an appeal for correction of report data and disposition data as provided in section 235A.19.

Sec. 38. Section 257.11, subsection 4, paragraph c, Code 2005, is amended by striking the paragraph.

Sec. 39. Section 284.12, subsections 2 and 4, Code 2005, are amended to read as follows:

2. The report shall be made available to the chairpersons and ranking members of the senate and house committees on education, ~~the legislative education accountability and oversight~~

committee, the deans of the colleges of education at approved practitioner preparation institutions in this state, the state board, the governor, and school districts by January 1. School districts shall provide information as required by the department for the compilation of the report and for accounting and auditing purposes.

4. In developing administrative rules for consideration by the state board, the department shall consult with persons representing teachers, administrators, school boards, approved practitioner preparation institutions, and other appropriate education stakeholders, ~~and the legislative education accountability and oversight committee.~~

Sec. 40. Section 321.69, subsection 3, Code 2005, is amended to read as follows:

3. The damage disclosure statement shall be provided by the transferor to the transferee at or before the time of sale. If the transferor is not a resident of this state or if the transferee acquired the vehicle by operation of law as provided in section 321.47, the transferee shall not be required to submit a damage disclosure statement from the transferor with the transferee's application for title unless the state of the transferor's residence requires a damage disclosure statement. However, the transferee shall submit a damage disclosure statement with the transferee's application for title indicating whether a salvage, rebuilt, or flood title had ever existed for the vehicle, and, if not, whether the vehicle was damaged to the extent that it was a wrecked or salvage vehicle as defined in section 321.52, subsection 4, paragraph "d", during or prior to the transferor's ownership of the vehicle, and the year, make, and vehicle identification number of the motor vehicle. The transferee shall not be required to indicate whether the vehicle was damaged to the extent that it was a wrecked or salvage vehicle as defined in section 321.52, subsection 4, paragraph "d", under this subsection if the transferor's certificate of title is from another state and if it indicates that the vehicle is salvaged and not rebuilt or is another state's salvage certificate of title.

Sec. 41. Section 321.69, subsection 9, Code 2005, is amended to read as follows:

9. Except for subsections 10 and 11, this section does not apply to motor trucks and truck tractors with a gross vehicle weight rating of sixteen thousand pounds or more, vehicles more than seven model years old, motorcycles, motorized bicycles, and special mobile equipment. This section does apply to motor homes. The requirement in subsection 1 that the new certificate of title and registration receipt shall state on the face of the title whether a prior owner had disclosed that the vehicle was damaged to the extent that it was a wrecked or salvage vehicle as defined in section 321.52, subsection 4, paragraph "d", does not apply to a vehicle with a certificate of title bearing a designation that the vehicle was previously titled on a salvage certificate of title pursuant to section 321.52, subsection 4, paragraph "b", or to a vehicle with a certificate of title bearing a "REBUILT" or "SALVAGE" designation pursuant to section 321.24, subsection 4 or 5. Except for subsections 10 and 11, this section does not apply to new motor vehicles with a true mileage, as defined in section 321.71, of one thousand miles or less, unless such vehicle has incurred damage as defined described in subsection 2.

Sec. 42. Section 322.10, Code 2005, is amended to read as follows:

322.10 JUDICIAL REVIEW.

Judicial review of actions of the department may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. The petitioner shall file with the clerk a bond for the use of the respondent, with sureties approved by ~~such the~~ clerk and in an amount fixed by the clerk, ~~provided in. In~~ no case shall the bond be less than fifty dollars, ~~conditioned. All bonds shall include the condition~~ that the petitioner shall perform the orders of the court.

Sec. 43. Section 331.260, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The question of forming a community commonwealth shall be submitted to the electorate in substantially the same manner form as provided in section 331.247, subsection 4, and ~~section~~ 331.252. The effective date of the charter and election of new officers of the community commonwealth shall be as provided in section 331.247, subsection 5.

Sec. 44. Section 331.506, subsection 1, paragraphs b and d, Code 2005, are amended to read as follows:

b. The auditor shall not issue a warrant to a drawee until the auditor has transmitted to the treasurer a list of the warrants to be issued. The list shall include the date, amount, and number of the warrant, name of the person to whom the warrant is issued, and the purpose for which the warrant is issued. The treasurer shall acknowledge receipt of the list by affixing the treasurer's signature at the bottom of the list and immediately returning the list to the auditor. The requirement that the treasurer sign to acknowledge receipt of the list is satisfied by use of a ~~digital signature or other~~ secure electronic signature if the county auditor and treasurer have complied with the applicable provisions of chapter 554D.

d. The requirement that the county auditor sign a warrant is satisfied by use of a ~~digital signature or other~~ secure electronic signature if the county auditor has complied with the applicable provisions of chapter 554D.

Sec. 45. Section 331.512, subsection 10, Code 2005, is amended to read as follows:

10. Furnish the assessor a plat book which is platted with the lands and lots within the assessment district as provided in section 441.29. ~~The auditor, with the approval of the board of supervisors, may establish a permanent real estate index number system as provided in section 441.29.~~

Sec. 46. Section 354.1, subsection 3, Code 2005, is amended to read as follows:

3. To provide for statewide, uniform procedures and standards for the platting of land while allowing the widest possible latitude for cities and counties to establish and enforce ordinances regulating the division and use of land, within the scope of, but not limited to, chapters 331, 335, 364, 414, and this chapter. All documents presented for recording pursuant to this chapter shall comply with section ~~331.602, subsection 1~~ 331.606B.

Sec. 47. Section 354.4, subsection 2, Code 2005, is amended to read as follows:

2. The auditor ~~may~~ shall note a permanent real estate index number upon each parcel shown on a plat of survey according to section 441.29 for real estate tax administration purposes. The surveyor shall not assign parcel letters or prepare a metes and bounds description for any parcel shown on a plat of survey unless the parcel was surveyed by the surveyor in compliance with chapter 355. Parcels within a plat of survey prepared pursuant to this section are subject to the regulations and ordinances of the governing body.

Sec. 48. Section 354.5, subsection 5, Code 2005, is amended to read as follows:

5. A description by reference to a permanent real estate index number is valid for the purpose of assessment and taxation ~~when a county has established a~~ under the permanent real estate index number system pursuant to section 441.29.

Sec. 49. Section 354.27, Code 2005, is amended to read as follows:

354.27 NOTING THE PERMANENT REAL ESTATE INDEX NUMBER.

When a permanent real estate index number system ~~has been~~ is established by a county pursuant to section 441.29, the auditor ~~may~~ shall note the permanent real estate index number on every conveyance.

Sec. 50. Section 368.7, subsection 1, paragraphs a and d, Code 2005, are amended to read as follows:

a. All of the owners of land in a territory adjoining a city may apply in writing to the council of the adjoining city requesting annexation of the territory. Territory comprising railway right-of-way or territory comprising not more than twenty percent of the land area may be included in the application without the consent of the owner to avoid creating an island or to create more uniform boundaries. Public land may be included in the territory to be annexed. However, the area of the territory that is public land included without the written consent of the agency with jurisdiction over the public land ~~may~~ shall not be used to determine the per-

centage of territory that is included with the consent of the owner and without the consent of the owner.

d. The city shall provide for a public hearing on the application before approving or denying it. The city shall provide written notice at least fourteen business days prior to any action by the city council regarding the application, including a public hearing, by regular mail to the chairperson of the board of supervisors of each county which contains a portion of the territory proposed to be annexed, each public utility which serves the territory proposed to be annexed, each owner of property located within the territory to be annexed who is not a party to the application, and each owner of property that adjoins the territory to be annexed unless the adjoining property is in a city. The city shall publish notice of the application and public hearing on the application in an official county newspaper in each county which contains a portion of the territory proposed to be annexed. Both the written and published notice shall include the time and place of the public hearing and a legal description of the territory to be annexed. The city ~~may~~ shall not assess the costs of providing notice as required in this section to the applicants.

Sec. 51. Section 368.25, Code 2005, is amended to read as follows:

368.25 FAILURE TO PROVIDE MUNICIPAL SERVICES.

Prior to expiration of the three-year period established in section 368.11, subsection 14 3, paragraph "n", the annexing city shall submit a report to the board describing the status of the provision of municipal services identified in the plan required in section 368.11, subsection 14 3, paragraph "n". If a city fails to provide municipal services, or fails to show substantial and continuing progress in the provision of municipal services, to territory involuntarily annexed, according to the plan for extending municipal services filed pursuant to section 368.11, subsection 14 3, paragraph "n", within the time period specified in that subsection, the city development board may initiate proceedings to sever the annexed territory from the city. The board shall notify the city of the severance proceedings and shall hold a public hearing on the proposed severance. The board shall give notice of the hearing in the same manner as notice of a public meeting in section 368.11. The board may order severance of all or a portion of the territory and the order to sever is not subject to approval at an election. A city may request that the board allow up to an additional three years to provide municipal services if good cause is shown. As an alternative to severance of the territory, the board may impose a moratorium on additional annexation by the city until the city complies with its plan for extending municipal services. For purposes of this section, "municipal services" means services included in the plan required by section 368.11, subsection 14 3, paragraph "n", for extending municipal services.

Sec. 52. Section 421.17, subsection 27, paragraph a, Code 2005, is amended to read as follows:

a. To establish, administer, and make available a centralized debt collection capability and procedure for the use by any state agency as defined in ~~former subsection 29~~ section 8A.504 to collect delinquent accounts, charges, fees, loans, taxes, or other indebtedness owed to or being collected by the state. The department's collection facilities shall only be available for use by other state agencies for their discretionary use when resources are available to the director and subject to the director's determination that use of the procedure is feasible. The director shall prescribe the appropriate form and manner in which this information is to be submitted to the office of the department. The obligations or indebtedness must be delinquent and not subject to litigation, claim, appeal, or review pursuant to the appropriate remedies of each state agency.

Sec. 53. Section 422.7, subsection 34, Code 2005, is amended by striking the subsection.

Sec. 54. Section 422.35, subsection 14, Code 2005, is amended by striking the subsection.

Sec. 55. Section 423.33, subsection 3, Code 2005, is amended to read as follows:

3. EVENT SPONSOR'S LIABILITY FOR SALES TAX. A person sponsoring a flea market or a craft, antique, coin, or stamp show or similar event shall obtain from every retailer selling tangible personal property or taxable services at the event proof that the retailer possesses a valid sales tax permit or secure from the retailer a statement, taken in good faith, that property or services offered for sale are not subject to sales tax. Failure to do so renders a sponsor of the event liable for payment of any sales tax, interest, and penalty due and owing from any retailer selling property or services at the event. Sections 423.31, 423.32, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42 apply to the sponsors. For purposes of this subsection, a person sponsoring a flea market or a craft, antique, coin, or stamp show or similar event does not include an organization which sponsors an event less than three times a year or a the state, county, or district agricultural fair or a fair as defined in section 174.1.

Sec. 56. Section 441.39, Code 2005, is amended to read as follows:

441.39 TRIAL ON APPEAL.

The court shall hear the appeal in equity and determine anew all questions arising before the board which relate to the liability of the property to assessment or the amount thereof. The court shall consider all of the evidence and there shall be no presumption as to the correctness of the valuation ~~of or~~ assessment appealed from. Its decision shall be certified by the clerk of the court to the county auditor, and the assessor, who shall correct the assessment books accordingly.

Sec. 57. Section 455B.174, subsection 4, paragraph e, Code 2005, is amended to read as follows:

e. If a public water supply has a groundwater source that contains petroleum, a fraction of crude oil, or their degradation products, or is located in an area deemed by the department as likely to be contaminated by such materials, and after consultation with the public water supply system and consideration of all applicable rules relating to remediation, the department may require the public water supply system to replace that groundwater source in order to receive a permit to operate. The requirement to replace the source shall only be made by the department if the public water supply system is fully compensated for any additional design, construction, operation, and monitoring costs from the Iowa comprehensive petroleum underground storage tank fund created by chapter 455G or from any other funds that do not impose a financial obligation on the part of the public water supply system. Funds available to or provided by the public water supply system may be used for system improvements made in conjunction with replacement of the source. The department cannot require a public water supply system to replace its water source with a less reliable water source or with a source that does not meet federal primary, secondary, or other health-based standards unless treatment is provided to ensure that the drinking water meets these standards. Nothing in this paragraph shall affect the public water supply's supply system's right to pursue recovery from a responsible party.

Sec. 58. Section 455B.751, subsection 7, Code 2005, is amended to read as follows:

7. "Third party" means any person other than a person that holds indicia of title to property as identified in section 455B.752, ~~subsection 1,~~ or that has acquired property as identified in section 455B.752, ~~subsection 2.~~

Sec. 59. Section 455G.2, subsection 6, Code 2005, is amended to read as follows:

6. "Claimant" means an owner or operator who has received assistance under the remedial account or who has had coverage under the underground storage tank insurance fund, established in section 455G.11, Code 2003, with respect to a release, or an installer or inspector who has had coverage under the underground storage tank insurance fund.

Sec. 60. Section 455G.2, subsection 15, Code 2005, is amended by striking the subsection.

Sec. 61. Section 455G.3, subsection 1, Code 2005, is amended to read as follows:

1. The Iowa comprehensive petroleum underground storage tank fund is created as a separate fund in the state treasury, and any funds remaining in the fund at the end of each fiscal year shall not revert to the general fund but shall remain in the Iowa comprehensive petroleum underground storage tank fund. Interest or other income earned by the fund shall be deposited in the fund. The fund shall include moneys credited to the fund under this section, section 423.43, subsection 1, paragraph "a", and sections 455G.8, 455G.9, and 455G.11, Code 2003, and other funds which by law may be credited to the fund. The moneys in the fund are appropriated to and for the purposes of the board as provided in this chapter. Amounts in the fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes set forth in this chapter. The treasurer of state shall act as custodian of the fund and disburse amounts contained in it as directed by the board including automatic disbursements of funds as received pursuant to the terms of bond indentures and documents and security provisions to trustees and custodians. The treasurer of state is authorized to invest the funds deposited in the fund at the direction of the board and subject to any limitations contained in any applicable bond proceedings. The income from such investment shall be credited to and deposited in the fund. The fund shall be administered by the board which shall make expenditures from the fund consistent with the purposes of the programs set out in this chapter without further appropriation. The fund may be divided into different accounts with different depositories as determined by the board and to fulfill the purposes of this chapter.

Sec. 62. Section 455G.3, subsection 3, paragraph c, Code 2005, is amended by striking the paragraph.

Sec. 63. Section 455G.4, subsection 1, paragraph e, Code 2005, is amended to read as follows:

e. Two owners or operators appointed by the governor. One of the owners or operators appointed pursuant to this paragraph shall have been a petroleum systems insured through the underground storage tank insurance fund as it existed on June 30, 2004, or a successor to the underground storage tank insurance fund and shall have been an insured through the insurance account of the comprehensive petroleum underground storage tank fund on or before October 26, 1990. One of the owners or operators appointed pursuant to this paragraph shall be self-insured.

Sec. 64. Section 455G.4, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. The board shall adopt rules regarding its practice and procedures, develop underwriting standards, ~~establish premiums for insurance fund coverage and risk factors~~, procedures for investigating and settling claims made against the fund, ~~determine appropriate deductibles or retentions in coverages or benefits offered~~, and otherwise implement and administer this chapter.

Sec. 65. Section 455G.4, subsection 3, paragraphs d and e, Code 2005, are amended by striking the paragraphs.

Sec. 66. Section 455G.13, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. An owner or operator's liability for a release for which coverage is admitted under the underground storage tank insurance fund established in section 455G.11, Code 2003, shall not exceed the amount of the deductible.

Sec. 67. Section 455G.13, subsection 12, Code 2005, is amended to read as follows:

12. RECOVERY OR SUBROGATION — INSTALLERS AND INSPECTORS. Notwithstand-

ing any other provision contained in this chapter, the board or a person insured under the underground storage tank insurance fund, established in section 455G.11, Code 2003, has no right of recovery or right of subrogation against an installer or an inspector who was insured by the underground storage tank insurance fund for the tank giving rise to the liability other than for recovery of any deductibles paid.

Sec. 68. Section 455G.14, Code 2005, is amended to read as follows:

455G.14 FUND NOT SUBJECT TO REGULATION.

The fund, ~~including but not limited to insurance coverage offered by the insurance fund~~, is not subject to regulation under chapter 502 or Title XIII, subtitle 1.

Sec. 69. Section 455G.17, subsection 3, Code 2005, is amended to read as follows:

3. The board shall adopt approved curricula for training persons to install underground storage tanks ~~in such a manner that the resulting installation may be certified under section 455G.11, subsection 10~~, and provide fire safety and environmental protection guidelines for persons removing tanks.

Sec. 70. Section 488.108, subsection 4, paragraph b, Code 2005, is amended to read as follows:

b. Each name reserved under section 488.109, or under sections 486A.1001, 490.401, 490.402, 490A.401, 490A.402, ~~504.401, 504.402~~, 504A.6, 504A.7, and 547.1.

Sec. 71. Section 488.1003, subsections 1 and 2, Code 2005, are amended to read as follows:

1. The person ~~that~~ was a partner when the conduct giving rise to the action occurred.

2. ~~The person whose~~ person's status as a partner devolved upon the person by operation of law or pursuant to the terms of the partnership agreement from a person that was a partner at the time of the conduct.

Sec. 72. Section 490.850, subsection 2, Code 2005, is amended to read as follows:

2. "Director" or "officer" means an individual who is or was a director or officer, respectively, of a corporation or who, while a director or officer of the corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, or agent of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan, or other entity. A director or officer is considered to be serving an employee benefit plan at the corporation's request if the director's duties to the corporation also impose duties on, or otherwise involve services by, that director to the plan or to participants in or beneficiaries of the plan. "Director" or "officer" includes, unless the context requires otherwise, the estate or personal representative of a director or officer.

Sec. 73. Section 501.103, subsection 3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A cooperative that claims that it is exempt from the restrictions of section 9H.4 pursuant to subsection 2 shall file ~~an annual~~ a biennial report with the secretary of state on or before March 31 of each even-numbered year on forms supplied by the secretary of state. The report shall be signed by the president or the vice president of the cooperative and shall contain the following:

Sec. 74. Section 502.102, subsection 17, paragraph d, Code 2005, is amended to read as follows:

d. With respect to a viatical settlement investment contract, "issuer" means a person involved in creating, transferring, or selling to an investor any interest in such a contract, including but not limited to fractional or pooled interests, but does not include an agent or a broker-dealer.

Sec. 75. Section 502.204, subsection 1, Code 2005, is amended to read as follows:

1. ENFORCEMENT-RELATED POWERS. Except with respect to a federal covered security or a transaction involving a federal covered security, an order under this chapter may deny, suspend application of, condition, limit, or revoke an exemption created under section 502.201, subsection 3, paragraph "c", or subsection 7 or ~~8~~, 8A, or 8B, or section 502.202, or an exemption or waiver created under section 502.203 with respect to a specific security, transaction, or offer. An order under this section may be issued only pursuant to the procedures in section 502.306, subsection 4, or section 502.604, and only prospectively.

Sec. 76. Section 502.508, subsection 2, Code 2005, is amended to read as follows:

2. CRIMINAL REFERENCE NOT REQUIRED. The attorney general or the proper county attorney, with or without a reference from the administrator, may institute criminal proceedings under this chapter.

Sec. 77. Section 504.111, subsection 3, Code 2005, is amended to read as follows:

3. The document must contain the information required by this ~~subchapter~~ chapter. It may contain other information as well.

Sec. 78. Section 504.141, subsection 30, Code 2005, is amended to read as follows:

30. "Record date" means the date established under subchapter VI or VII on which a corporation determines the identity of its members for the purposes of this ~~subchapter~~ chapter.

Sec. 79. Section 504.142, subsection 4, paragraph b, Code 2005, is amended to read as follows:

b. When electronically transmitted to the ~~shareholder~~ member in a manner authorized by the ~~shareholder~~ member.

Sec. 80. Section 504.142, subsection 8, Code 2005, is amended to read as follows:

8. Written notice is correctly addressed to a domestic or foreign corporation authorized to transact business in this state, other than in its capacity as a member, if addressed to its registered agent or to its secretary at its principal office shown in its most recent biennial report or, in the case of a foreign corporation that has not yet delivered ~~an annual~~ a biennial report, in its application for a certificate of authority.

Sec. 81. Section 504.202, subsection 2, paragraph d, subparagraph (3), Code 2005, is amended to read as follows:

(3) A violation of section ~~504.834~~ 504.835.

Sec. 82. Section 504.202, subsection 2, paragraph e, subparagraph (3), Code 2005, is amended to read as follows:

(3) A violation of section ~~504.834~~ 504.835.

Sec. 83. Section 504.401, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. A corporate name reserved or registered under section 490.402, 490.403, 504.402, ~~or~~ 504.403, or 504A.6.

Sec. 84. Section 504.401, subsection 5, Code 2005, is amended to read as follows:

5. This ~~subchapter~~ chapter does not control the use of fictitious names; however, if a corporation or a foreign corporation uses a fictitious name in this state it shall deliver to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

Sec. 85. Section 504.403, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. A corporate name reserved under section 490.402, 490.403, ~~or 504.402~~, or 504A.6 or registered under this section.

Sec. 86. Section 504.704, subsection 1, Code 2005, is amended to read as follows:

1. Unless limited or prohibited by the articles or bylaws of the corporation, action required or permitted by this ~~subchapter~~ chapter to be approved by the members of a corporation may be approved without a meeting of members if the action is approved by members holding at least eighty percent of the voting power. The action must be evidenced by one or more written consents describing the action taken, signed by those members representing at least eighty percent of the voting power, and delivered to the corporation for inclusion in the minutes or filing with the corporate records. A written consent may be revoked by a writing to that effect received by the corporation prior to the receipt by the corporation of unrevoked written consents sufficient in number to take corporation action.

Sec. 87. Section 504.705, subsection 3, paragraph b, Code 2005, is amended to read as follows:

b. The notice of an annual or regular meeting includes a description of any matter or matters which must be considered for approval by the members under sections 504.833, 504.857 ~~504.859~~, 504.1003, 504.1022, 504.1104, 504.1202, ~~504.1401~~, and 504.1402.

Sec. 88. Section 504.706, subsection 1, Code 2005, is amended to read as follows:

1. A member may waive any notice required by this ~~subchapter~~ chapter, the articles, or bylaws before or after the date and time stated in the notice. The waiver must be in writing, be signed by the member entitled to the notice, and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

Sec. 89. Section 504.713, subsection 1, Code 2005, is amended to read as follows:

1. Unless this ~~subchapter~~ chapter or the articles or bylaws of a corporation provide for a higher or lower quorum, ten percent of the votes entitled to be cast on a matter must be represented at a meeting of members to constitute a quorum on that matter.

Sec. 90. Section 504.714, subsection 1, Code 2005, is amended to read as follows:

1. Unless this ~~subchapter~~ chapter or the articles or bylaws of a corporation require a greater vote or voting by class, if a quorum is present, the affirmative vote of the votes represented and voting, which affirmative votes also constitute a majority of the required quorum, is the act of the members.

Sec. 91. Section 504.822, subsection 1, Code 2005, is amended to read as follows:

1. Except to the extent the articles or bylaws of a corporation require that action by the board of directors be taken at a meeting, action required or permitted by this ~~subchapter~~ chapter to be taken by the board of directors may be taken without a meeting if each director signs a consent describing the action to be taken and delivers it to the corporation.

Sec. 92. Section 504.824, Code 2005, is amended to read as follows:
504.824 WAIVER OF NOTICE.

1. A director may at any time waive any notice required by this ~~subchapter~~ chapter, the articles, or bylaws. Except as provided in subsection 2, the waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or the corporate records.

2. A director's attendance at or participation in a meeting waives any required notice of the meeting unless the director, upon arriving at the meeting or prior to the vote on a matter not noticed in conformity with this ~~subchapter~~ chapter, the articles, or bylaws, objects to lack of notice and does not thereafter vote for or assent to the objected-to action.

Sec. 93. Section 504.825, Code 2005, is amended to read as follows:

504.825 QUORUM AND VOTING.

1. Except as otherwise provided in this ~~subchapter~~ chapter, or the articles or bylaws of a corporation, a quorum of a board of directors consists of a majority of the directors in office immediately before a meeting begins. The articles or bylaws shall not authorize a quorum of fewer than one-third of the number of directors in office.

2. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board unless this ~~subchapter~~ chapter, the articles, or bylaws require the vote of a greater number of directors.

Sec. 94. Section 504.832, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. That section ~~504.202, subsection 2, paragraph "d", or~~ 504.901 or the protection afforded by section ~~504.831~~ 504.833, if interposed as a bar to the proceeding by the director, does not preclude liability.

Sec. 95. Section 504.832, subsection 3, paragraph c, Code 2005, is amended to read as follows:

c. Affect any rights to which the corporation or a ~~shareholder~~ member may be entitled under another statute of this state or the United States.

Sec. 96. Section 504.833, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A transaction in which a director of a ~~mutual benefit~~ corporation has a conflict of interest may be approved if either of the following occurs:

Sec. 97. Section 504.833, subsection 5, Code 2005, is amended to read as follows:

5. For purposes of subsection 2, paragraph "b", a conflict of interest transaction is authorized, approved, or ratified by the members if it receives a majority of the votes entitled to be counted under this subsection. Votes cast by or voted under the control of a director who has a direct or indirect interest in the transaction, and votes cast by or voted under the control of an entity described in subsection 3, paragraph "a", shall not be counted in a vote of members to determine whether to authorize, approve, or ratify a conflict of interest transaction under subsection 2, paragraph "b". The vote of these members, however, is counted in determining whether the transaction is approved under other sections of this ~~subchapter~~ chapter. A majority of the voting power, whether or not present, that is entitled to be counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this section.

Sec. 98. Section 504.835, subsection 1, Code 2005, is amended to read as follows:

1. Unless a director complies with the applicable standards of conduct described in section 504.831, a director who votes for or assents to a distribution made in violation of this ~~subchapter~~ chapter is personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating this ~~subchapter~~ chapter.

Sec. 99. Section 504.835, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. Each person who received an unlawful distribution for the amount of the distribution whether or not the person receiving the distribution knew it was made in violation of this ~~subchapter~~ chapter.

Sec. 100. Section 504.852, subsection 4, paragraph a, Code 2005, is amended to read as follows:

a. In connection with a proceeding by or in the right of the corporation, except for reason-

able expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard of conduct under subsection 1.

Sec. 101. Section 504.856, subsection 2, paragraph c, Code 2005, is amended to read as follows:

c. By the members of a ~~mutual benefit~~ corporation, but directors who are at the time parties to the proceeding shall not vote on the determination.

Sec. 102. Section 504.857, subsection 1, paragraph b, subparagraph (2), subparagraph subdivision (b), Code 2005, is amended to read as follows:

(b) An intentional infliction of harm on the corporation or the ~~shareholders~~ members.

Sec. 103. Section 504.901, subsection 3, Code 2005, is amended to read as follows:

3. A violation of section ~~504.834~~ 504.835.

Sec. 104. Section 504.1008, Code 2005, is amended to read as follows:

504.1008 EFFECT OF AMENDMENT AND RESTATEMENT.

An amendment to articles of incorporation does not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, any requirement or limitation imposed upon the corporation, or any property held by it by virtue of any trust upon which such property is held by the corporation, or the existing rights of persons other than members of the corporation. An amendment changing a corporation's name does not abate a proceeding brought by or against the corporation in its former name.

Sec. 105. Section 504.1101, subsection 1, Code 2005, is amended to read as follows:

1. Subject to the limitations set forth in section 504.1102, one or more nonprofit corporations may merge with or into any one or more business corporations or nonprofit corporations or limited liability companies, if the plan of merger is approved as provided in section 504.1103.

Sec. 106. Section 504.1102, subsection 1, paragraph d, subparagraph (3), Code 2005, is amended to read as follows:

(3) The merger is approved by a majority of directors of the public benefit or religious corporation who are not and will not become members or shareholders in or officers, employees, agents, or consultants of the surviving corporation entity.

Sec. 107. Section 523A.402, subsection 6, paragraph c, Code 2005, is amended to read as follows:

c. The annuity shall not be contestable, or limit death benefits in the case of suicide, with respect to that portion of the face amount of the annuity which is required by paragraph "b". The annuity shall not refer to physical examination, or otherwise operate as an exclusion, limitation, or condition other than requiring submission of proof of death or surrender of the annuity at the time the prepaid purchase agreement is funded, matures, or is canceled, as the case may be.

Sec. 108. Section 524.310, subsection 1, Code 2005, is amended to read as follows:

1. The name of a state bank originally incorporated or organized after the effective date of this chapter shall include the word "bank" and may include the word "state" or "trust" in its name. A state bank using the word "trust" in its name must be authorized under this chapter to act in a fiduciary capacity. A national bank or federal savings bank association shall not use the word "state" in its legally chartered name.

Sec. 109. Section 524.1201, subsection 4, Code 2005, is amended by striking the subsection.

Sec. 110. Section 524.1303, subsections 4 and 5, Code 2005, are amended to read as follows:

4. Within thirty days after the date of the ~~second~~ publication of the notice, any interested person may submit to the superintendent written comments and data on the application. The superintendent may extend the thirty-day comment period if, in the superintendent's judgment, extenuating circumstances exist.

5. Within thirty days after the date of the ~~second~~ publication of the notice, any interested person may submit to the superintendent a written request for a hearing on the application. The request shall state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the superintendent. If the reasons are related to factual disputes, the disputes shall be described. Comments challenging the legality of an application shall be submitted separately in writing and shall not be considered at a hearing conducted pursuant to this section. Written requests for hearings shall be evaluated by the superintendent, who may grant or deny such requests in whole or in part. A hearing request shall generally be granted only if it is determined that written submissions would be inadequate or that a hearing would otherwise be beneficial to the decision-making process. A hearing may be limited to issues considered material by the superintendent.

Sec. 111. Section 524.1309, subsections 5 and 6, Code 2005, are amended to read as follows:

5. The board of directors has full power to complete the settlement of the affairs of the state bank. Within thirty days after approval by the superintendent of the plan to cease the business of banking and become a corporation subject to chapter 490, or a limited liability company subject to chapter 490A, the state bank shall give notice of its intent to persons identified in section 524.1305, subsection 4 ~~3~~, in the manner provided for in that subsection. In completing the settlement of its affairs as a state bank the state bank shall also follow the procedure prescribed in section 524.1305, subsections 4, 5, and 6.

6. Upon completion of all the requirements of this section, the state bank shall deliver to the superintendent articles of intent to be subject to chapter 490 or 490A, together with the applicable filing and recording fees, which shall set forth that the state bank has complied with this section, that it has ceased to carry on the business of banking, and the information required by section 490.202 relative to the contents of articles of incorporation under chapter 490, or article of organization under chapter 490A. If the superintendent finds that the state bank has complied with this section and that the articles of intent to be subject to chapter 490 or 490A satisfy the requirements of this section, the superintendent shall deliver them to the secretary of state for filing and recording in the secretary of state's office, and ~~they~~ the superintendent shall be filed file and recorded record them in the office of the county recorder.

Sec. 112. Section 524.1402, subsections 5 and 6, Code 2005, are amended to read as follows:

5. Within thirty days after the date of the ~~second~~ publication of the notice required under subsection 4, any interested person may submit to the superintendent written comments and data on the application. Comments challenging the legality of an application shall be submitted separately in writing. The superintendent may extend the thirty-day comment period if, in the superintendent's judgment, extenuating circumstances exist.

6. Within thirty days after the date of the ~~second~~ publication of the notice required under subsection 4, any interested person may submit to the superintendent a written request for a hearing on the application. The request shall state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the superintendent. If the reasons are related to factual disputes, the disputes shall be described. Written requests for hearings shall be evaluated by the superintendent, who may grant or deny such requests in whole or in part. A hearing request shall generally be granted only if it is determined that written submissions would be inadequate or that a hear-

ing would otherwise be beneficial to the decision-making process. A hearing may be limited to issues considered material by the superintendent.

Sec. 113. Section 535.8, subsection 2, paragraph b, unnumbered paragraph 3, Code 2005, is amended to read as follows:

The collection of any costs other than as expressly permitted by this paragraph “b” is prohibited. However, additional costs incurred in connection with a loan under this paragraph “b”, if bona fide and reasonable, may be collected by a state-chartered financial institution licensed under chapter 524, 533, or 534, to the extent permitted under applicable federal law as determined by the office of the comptroller of the currency of the United States department of treasury, the national credit union administration, or the office of thrift supervision of the United States department of treasury. Such costs shall apply only to the same type of state-chartered entity as the federally chartered entity affected and shall apply to and may be collected by an insurer organized under chapter 508 or 515, or otherwise authorized to conduct the business of insurance in this state.

Sec. 114. Section 535.8, subsection 2, paragraph b, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Nothing in this section shall be construed to change the prohibition against the sale of title insurance or sale of insurance against loss or damage by reason of defective title or encumbrances as provided in section 515.48, subsection 10.

Sec. 115. Section 546.10, subsection 1, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. The real estate appraiser examining board created pursuant to section 543D.4.

Sec. 116. Section 551A.9, subsection 3, paragraph e, Code 2005, is amended to read as follows:

e. Misrepresent the amount of profits, net or gross, which the ~~business opportunity~~ purchaser can expect from the operation of the business opportunity.

Sec. 117. Section 602.8102, subsection 135A, Code 2005, is amended to read as follows: 135A. Assess the surcharges provided by sections 911.1, 911.2, 911.3, and 911.4.

Sec. 118. Section 714.22, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The provisions of sections 714.17 ~~to 714.22~~ through 714.21 shall not apply to trade or vocational schools if they meet either of the following conditions:

Sec. 119. Section 814.11, subsection 7, Code 2005, is amended to read as follows:

7. An attorney appointed under this section is not liable to a person represented by the attorney for damages as a result of a conviction in a criminal case unless the court determines in a postconviction proceeding or on direct appeal that the person’s conviction resulted from ineffective assistance of counsel, and the ineffective assistance of counsel is the proximate cause of the damage. In juvenile or civil proceedings, an attorney appointed under this section is not liable to a person represented by the attorney for damages unless it has been determined that the attorney has provided ineffective assistance of counsel and the ineffective assistance of counsel ~~claim~~ is the proximate cause of the damage.

Sec. 120. Section 815.10, subsection 6, Code 2005, is amended to read as follows:

6. An attorney appointed under this section is not liable to a person represented by the attorney for damages as a result of a conviction in a criminal case unless the court determines in a postconviction proceeding or on direct appeal that the person’s conviction resulted from

ineffective assistance of counsel, and the ineffective assistance of counsel is the proximate cause of the damage. In juvenile or civil proceedings, an attorney appointed under this section is not liable to a person represented by the attorney for damages unless it has been determined that the attorney has provided ineffective assistance of counsel, and the ineffective assistance of counsel ~~claim~~ is the proximate cause of the damage.

Sec. 121. 2002 Iowa Acts, chapter 1111, section 36, is repealed.

Sec. 122. 2004 Iowa Acts, chapter 1049, section 81, the portion enacting section 504.810, subsection 1, paragraph a, is amended to read as follows:

a. A director engaged in fraudulent conduct with respect to the corporation or its members, grossly abused the position of director, or intentionally inflicted harm on the corporation.

Sec. 123. 2004 Iowa Acts, chapter 1049, section 101, the portion enacting section 504.851, subsection 6, paragraph b, is amended to read as follows:

b. When used with respect to an officer, as contemplated in section 504.857, the office in a corporation held by the officer. "Official capacity" does not include service for any other foreign or domestic business or nonprofit corporation or any partnership, joint venture, trust, employee benefit plan, or other entity.

Sec. 124. 2004 Iowa Acts, chapter 1161, is amended by adding the following new section:

SEC. 62A. Section 502.701, subsection 1, Code 2003, is amended to read as follows:

1. A joint investment trust organized pursuant to chapter 28E for the purposes of joint investment of public funds is subject to the jurisdiction and authority of the administrator, including all requirements of this chapter, except the registration provisions of sections ~~502.201~~ 502.301 and ~~502.218~~ 502.321.

Sec. 125. Sections 101.28, 163.13, 163.22, and 266.32, Code 2005, are repealed.

Sec. 126. EFFECTIVE DATES AND RETROACTIVE APPLICABILITY.

1. The section of this Act amending section 22.1, subsection 3, is retroactively applicable to July 1, 2004, and is applicable on and after that date.

2. The section of this Act repealing 2002 Iowa Acts, chapter 1111, section 36, takes effect upon enactment and applies retroactively to June 30, 2004.

3. The section of this Act amending 2004 Acts, chapter 1049, section 81, takes effect upon enactment and applies retroactively to July 1, 2004.

4. The section of this Act amending 2004 Iowa Acts, chapter 1049, section 101, takes effect upon enactment and applies retroactively to July 1, 2004.

5. The section of this Act amending 2004 Iowa Acts, chapter 1161, takes effect upon enactment and applies retroactively to January 1, 2005.

Approved April 6, 2005

CHAPTER 20

TRANSPORTATION — ADMINISTRATION, FUNDING, AND MISCELLANEOUS REGULATIONS

H.F. 591

AN ACT relating to state department of transportation duties concerning its budget, distribution of state institutional road funds, vehicle weight and length restrictions, all-terrain vehicle use, evidence of interstate authority and penalties, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 307.10, subsection 5, Code 2005, is amended by striking the subsection.

Sec. 2. Section 307.22, subsection 5, Code 2005, is amended by striking the subsection.

Sec. 3. Section 307A.2, subsection 11, Code 2005, is amended to read as follows:

11. Construct, reconstruct, improve, and maintain state institutional roads and state park roads, which are part of the state park, state institution, and other state land road system as defined in section 306.3, and bridges on such roads, roads located on state fairgrounds as defined in chapter 173, and the roads and bridges located on community college property as defined in chapter 260C, upon the request of the state board, department, or commission which has jurisdiction over such roads. This shall be done in such manner as may be agreed upon by the state transportation commission and the state board, department, or commission which has jurisdiction. The commission may contract with any county or municipality for the construction, reconstruction, improvement, or maintenance of such roads and bridges. Any state park road which is an extension of either a primary or secondary highway which both enters and exits from a state park at separate points shall be constructed, reconstructed, improved, and maintained as provided in section 306.4. Funds allocated from the road use tax fund for the purposes of this subsection shall be apportioned in the ratio that the needs of the state institutional roads and bridges, park roads and bridges, or community college roads and bridges bear to the total needs of these facilities based upon the most recent quadrennial park and institution need study, following manner and amounts:

- a. For department of natural resources facility roads, forty-five and one-half percent.
- b. For department of human services facility roads, six and one-half percent.
- c. For department of corrections facility roads, five and one-half percent.
- d. For national guard facility roads, four percent.
- e. For state board of regents facility roads, thirty percent.
- f. For state fair board facility roads, two percent.
- g. For department of administrative services facility roads, one-half percent.
- h. For department of education facility roads, six percent.

Sec. 4. Section 321.1, subsection 88, Code 2005, is amended to read as follows:

88. "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn. However, a truck tractor may have a box, deck, or plate for carrying freight, mounted on the frame behind the cab, and forward of the fifth-wheel connection point.

Sec. 5. Section 321.463, subsection 5, paragraph a, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The maximum gross weight allowed to be carried on a vehicle or combination of vehicles on highways which are part of the interstate primary system is as follows:

Sec. 6. Section 321.463, subsection 5, paragraph b, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The maximum gross weight allowed to be carried on a vehicle or combination of vehicles on noninterstate nonprimary highways is as follows:

Sec. 7. Section 321.463, subsection 8, Code 2005, is amended to read as follows:

8. A vehicle or combination of vehicles transporting materials or equipment on nonprimary highways to or from a construction project or commercial plant site may operate under the maximum gross weight table for interstate primary highways in subsection 5, paragraph “a”, if the route is approved by the department or appropriate local authority. Route approval is not required if the vehicle or combination of vehicles transporting materials or equipment to or from a construction project or commercial plant site complies with the maximum gross weight table for noninterstate highways in subsection 5, paragraph “c”.

Sec. 8. Section 321I.2, unnumbered paragraph 2, Code 2005, is amended by striking the unnumbered paragraph.

Sec. 9. Section 321I.10, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The department of transportation may issue a permit to a state agency, a county, or a city to allow an all-terrain vehicle trail to cross a primary highway. The trail crossing shall be part of an all-terrain vehicle trail designated by the state agency, county, or city. A permit shall be issued only if the crossing can be accomplished in a safe manner and allows for adequate sight distance for both motorists and all-terrain vehicle operators. The department may adopt rules to administer this subsection.

Sec. 10. Section 327B.1, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 6. A motor carrier owner or driver shall carry proper evidence of interstate authority in the motor carrier and shall make such evidence available to a peace officer upon request.¹

NEW SUBSECTION. 7. If a motor carrier owner or driver is cited for failure to have proper evidence of interstate authority, the owner or driver may produce such evidence to the clerk of court prior to the date of such person’s court appearance as indicated on the citation, and the owner or driver shall not be convicted of such violation and the citation issued shall be dismissed.

Sec. 11. Section 327B.5, Code 2005, is amended to read as follows:

327B.5 PENALTY.

Any person violating the provisions of this chapter shall, upon conviction, be subject to a scheduled fine of not more than one hundred dollars or imprisonment in the county jail for not more than thirty days as provided in section 805.8A, subsection 13, paragraphs “f” and “g”.

Sec. 12. CODE EDITOR DIRECTIVE. The Code editor shall correct the titles of the charts in section 321.463, subsection 5, paragraphs “a” and “b”, to conform with the amendments to those provisions of section 321.463 as contained in this Act.

Sec. 13. EFFECTIVE DATE. The sections of this Act amending section 321.463, being deemed of immediate importance, take effect upon enactment.

Approved April 6, 2005

¹ See chapter 179, §129 herein

CHAPTER 21**REGULATION OF AGRICULTURAL SEED***H.F. 642*

AN ACT relating to the regulation of agricultural seed, by providing for preemption of local legislation.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **INTENT.** It is the intent of the general assembly in enacting this Act to accomplish uniformity in oversight and regulation of seed used in agriculture. It is not intended that this Act preclude a local governmental entity from pursuing governmental activities not in conflict with this Act.

Sec. 2. Section 199.1, Code 2005, is amended by adding the following new subsections:
NEW SUBSECTION. 11A. a. "Local governmental entity" means any political subdivision, or any state authority which is not any of the following:

- (1) The general assembly.
- (2) A principal central department as enumerated in section 7E.5, or a unit of a principal central department.

b. "Local governmental entity" includes but is not limited to a county, special district, township, or city as provided in title IX of this Code.

NEW SUBSECTION. 11B. "Local legislation" means any ordinance, motion, resolution, amendment, regulation, or rule adopted by a local governmental entity.

Sec. 3. **NEW SECTION.** 199.13A **LOCAL LEGISLATION — PROHIBITION.**

1. The provisions of this chapter and rules adopted by the department pursuant to this chapter shall preempt local legislation adopted by a local governmental entity relating to the production, use, advertising, sale, distribution, storage, transportation, formulation, packaging, labeling, certification, or registration of an agricultural seed. A local governmental entity shall not adopt or continue in effect such local legislation regardless of whether a statute or a rule adopted by the department specifically preempts the local legislation. Local legislation in violation of this section is void and unenforceable.

2. This section does not apply to any of the following:

- a. Local legislation of general applicability to commercial activity.
- b. A motion or resolution that provides for any activity relating to agricultural seed which is owned by the local governmental entity and which is kept or used on land held by the local governmental entity.

Approved April 6, 2005

CHAPTER 22

FINANCIAL INSTITUTION OR INSURER NAMES, TRADEMARKS, LOGOS, OR SYMBOLS — PROHIBITED USE

S.F. 74

AN ACT relating to financial institutions and insurers, by prohibiting the deceptive use of name, and providing remedies and penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 547A.1 DEFINITION.

As used in this chapter, unless the context otherwise requires, “financial institution” means the same as defined in section 527.2, and “insurer” means an insurer organized under Title XIII, subtitle 1, or similar laws of any other state or the United States.

Sec. 2. NEW SECTION. 547A.2 MISUSE OF NAME — PENALTY.

1. A person who uses the name, trademark, logo, or symbol of a financial institution or insurer in connection with the sale, offering for sale, distribution, or advertising of any product or service without the consent of the financial institution or insurer, if such use is misleading or deceptive as to the source of origin or sponsorship of, or the affiliation with, the product or service, is guilty of a serious misdemeanor.

2. A financial institution or insurer may bring an action to enjoin the misleading or deceptive use prohibited in subsection 1 and recover all damages suffered by reason of the prohibited use, including reasonable attorney fees. The financial institution or insurer may recover any profits derived from the prohibited use. The state agency with regulatory authority over the financial institution or insurer may also bring an action to enjoin the misleading or deceptive use prohibited in subsection 1. This subsection does not preclude any other remedy provided by law.

Approved April 13, 2005

CHAPTER 23

CIVIL RIGHTS COMMISSION — SERVICE AND DELIVERY OF COMPLAINTS AND ORDERS

S.F. 215

AN ACT modifying the certified mail requirement concerning the service and delivery of certain civil rights complaints and orders.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 216.15, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. After the filing of a verified complaint, a true copy shall be served within twenty days by ~~certified mail~~ on the person against whom the complaint is filed. If the first named respondent on a complaint is not a governmental entity, service of a true copy on the respondent shall be by certified mail. An authorized member of the commission staff shall make a prompt inves-

tigation and shall issue a recommendation to an administrative law judge employed either by the commission or by the division of administrative hearings created by section 10A.801, who shall then issue a determination of probable cause or no probable cause.

Sec. 2. Section 216.15, subsection 3, paragraph c, Code 2005, is amended to read as follows:

c. If the administrative law judge concurs with the investigating official that probable cause exists regarding the allegations of the complaint, the staff of the commission shall promptly endeavor to eliminate the discriminatory or unfair practice by conference, conciliation, and persuasion. If the administrative law judge finds that no probable cause exists, the administrative law judge shall issue a final order dismissing the complaint and shall promptly mail a copy to the complainant and to the respondent ~~by certified mail~~. A finding of probable cause shall not be introduced into evidence in an action brought under section 216.16.

Sec. 3. Section 216.15, subsection 10, Code 2005, is amended to read as follows:

10. If, upon taking into consideration all of the evidence at a hearing, the commission finds that a respondent has not engaged in any such discriminatory or unfair practice, the commission shall issue an order denying relief and stating the findings of fact and conclusions of the commission, and shall cause a copy of the order dismissing the complaint to be served ~~by certified mail~~ on the complainant and the respondent.

Sec. 4. Section 216.17, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

For purposes of the time limit for filing a petition for judicial review under the Iowa administrative procedure Act, chapter 17A, specified by section 17A.19, the issuance of a final decision of the commission under this chapter occurs on the date notice of the decision is mailed ~~by certified mail~~, to the parties.

Approved April 13, 2005

CHAPTER 24

INTERNAL REVENUE CODE REFERENCES AND INCOME TAX REVISIONS

H.F. 186

AN ACT updating the Code references to the Internal Revenue Code and including retroactive applicability and effective date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 15.335, subsection 4, unnumbered paragraph 2, Code 2005, is amended to read as follows:

For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1 ~~31~~, 2004 2005.

Sec. 2. Section 15A.9, subsection 8, paragraph e, unnumbered paragraph 2, Code 2005, is amended to read as follows:

For purposes of this subsection, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1 ~~31~~, 2004 2005.

Sec. 3. Section 422.3, subsection 5, Code 2005, is amended to read as follows:

5. "Internal Revenue Code" means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1 31, 2003, and as amended by Pub. L. No. 108-27, section 202, whichever is applicable 2005.

Sec. 4. Section 422.7, subsections 41 and 43, Code 2005, are amended by striking the subsections.

Sec. 5. Section 422.9, subsection 2, paragraph k, Code 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

k. The deduction for state sales and use taxes is allowable only if the taxpayer elected to deduct the state sales and use taxes in lieu of state income taxes under section 164 of the Internal Revenue Code. A deduction for state sales and use taxes is not allowed if the taxpayer has taken the deduction for state income taxes or claimed the standard deduction under section 63 of the Internal Revenue Code. This paragraph applies to taxable years beginning after December 31, 2003, and before January 1, 2006.

Sec. 6. Section 422.10, subsection 3, unnumbered paragraph 2, Code 2005, is amended to read as follows:

For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1 31, 2004 2005.

Sec. 7. Section 422.32, subsection 7, Code 2005, is amended to read as follows:

7. "Internal Revenue Code" means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1 31, 2003, and as amended by Pub. L. No. 108-27, section 202, whichever is applicable 2005.

Sec. 8. Section 422.33, subsection 5, paragraph d, unnumbered paragraph 2, Code 2005, is amended to read as follows:

For purposes of this subsection, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1 31, 2004 2005.

Sec. 9. Section 422.35, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 20. Subtract the amount of foreign dividend income, including subpart F income as defined in section 952 of the Internal Revenue Code, based upon the percentage of ownership as set forth in section 243 of the Internal Revenue Code.

Sec. 10. **RETROACTIVE APPLICABILITY.** This Act applies retroactively to January 1, 2003, for tax years beginning on or after that date.

Sec. 11. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 13, 2005

CHAPTER 25**UTILITY REPLACEMENT TAX TASK FORCE***H.F. 187*

AN ACT relating to the utility replacement tax task force.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 437A.15, subsection 7, Code 2005, is amended to read as follows:

7. The department of management, in consultation with the department of revenue, shall coordinate the utility replacement tax task force and provide staffing assistance to the task force. It is the intent of the general assembly that the task force include representatives of the department of management, department of revenue, electric companies, natural gas companies, municipal utilities, electric cooperatives, counties, cities, school boards, and industrial, commercial, and residential consumers, and other appropriate stakeholders. The director of the department of management and the director of revenue shall serve as cochairpersons of the task force.

The task force shall study the effects of the replacement tax on local taxing authorities, local taxing districts, consumers, and taxpayers and the department of management shall report to the general assembly by January 1 of each year through January 1, 2005, the results of the study and the specific recommendations of the task force for modifications to the replacement tax, if any, which will further the purposes of tax neutrality for local taxing authorities, local taxing districts, taxpayers, and consumers, consistent with the stated purposes of this chapter. The department of management shall also report to the legislative council by November 15 of each year through 2004, the status of the task force study and any recommendations through January 1, 2007. If the task force recommends modifications to the replacement tax that will further the purposes of tax neutrality for local taxing authorities, local taxing districts, taxpayers, and consumers, consistent with the stated purposes of this chapter, the department of management shall transmit those recommendations to the general assembly.

Approved April 13, 2005

CHAPTER 26**TITLE GUARANTY PROGRAM —
MORTGAGE RELEASES — ABTRACTOR CERTIFICATIONS***H.F. 332*

AN ACT allowing certain abstractors to request a mortgage release.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 16.92, subsection 1, paragraph g, Code 2005, is amended to read as follows:

g. "Real estate lender or closer" means a person licensed to regularly lend moneys to be secured by a mortgage on real property in this state, a licensed real estate broker, or a licensed attorney, or a participating abstractor.

Sec. 2. Section 16.92, subsection 1, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. "Participating abstractor" means an abstractor participating in the title guaranty program.

Approved April 13, 2005

CHAPTER 27

EQUIPMENT DEALERSHIPS — SALE OR TRANSFER

H.F. 373

AN ACT relating to equipment dealerships, by providing for the sale or transfer of a dealership and providing for the Act's applicability.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 322F.5A TRANSFER OF DEALERSHIP.

1. If a supplier has contractual authority to approve or deny a request for a sale or transfer of a dealer's business or an equity ownership interest in the business, the supplier shall approve or deny the request within sixty days after receiving a written request from the dealer. If the supplier has not approved or denied the request within the sixty-day period, the request shall be deemed approved. The dealer's request shall include reasonable financial information, personal background information, character references, and work histories for each acquiring person.

2. If a supplier denies a request made pursuant to this section, the supplier shall provide the dealer with a written notice of the denial that states the reasons for the denial. A supplier may only deny a request based on the failure of a proposed transferee to meet the reasonable requirements consistently imposed by the supplier in determining whether to approve a transfer or a new dealership.

Sec. 2. Section 322F.9, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. For all dealership agreements governing the sale or transfer of a dealer's business, section 322F.5A applies to those dealership agreements in effect that have no expiration date and all other such dealership agreements entered into or renewed on or after July 1, 2005. Any dealership agreement in effect on July 1, 2005, which by its own terms will terminate on a subsequent date, shall be governed by the law as it existed prior to July 1, 2005.

Approved April 13, 2005

CHAPTER 28**DENTAL ASSISTANTS — EDUCATION AND TRAINING***H.F. 131*

AN ACT relating to the required education and training for dental assistants.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 153.39, subsection 2, Code 2005, is amended to read as follows:

2. A person shall be registered upon the successful completion of education and examination requirements pursuant to paragraph “a” or “b”. ~~Education requirements shall be determined by the board by rule, and may be satisfied either through a formal series of classes or through job equivalency training, according to standards to be determined by the board.~~ Education requirements shall be determined by the board by rule, according to standards to be determined by the board.

a. Successful completion of a course of study and examination approved by the board and sponsored by a board-approved postsecondary school.

b. Successful completion of on-the-job training and examination consisting of all of the following:

(1) Completion of on-the-job training as specified in rule.

(2) Successful completion of an examination process approved by the board. A written examination may be waived by the board pursuant to section 17A.9A, in practice situations where the written examination is deemed to be unnecessary or detrimental to the dentist’s practice.

The education requirements in paragraphs “a” and “b” may include possession of a valid certificate in a nationally recognized course in cardiopulmonary resuscitation. Successful passage of an examination administered by the board, under paragraph “a” or “b”, which shall include sections regarding infection control, hazardous materials, and jurisprudence, shall also be required. The board shall establish continuing education requirements as a condition of renewing registration as a registered dental assistant, as well as standards for the suspension or revocation of registration.

Sec. 2. Section 153.39, subsection 3, Code 2005, is amended to read as follows:

3. ~~Individuals employed as a dental assistant as of July 1, 2001, shall be registered with the board and receive a certificate of registration, and individuals~~ employed as a dental assistant after July 1, 2001 2005, shall have a ~~six-month~~ twelve-month period following their first date of employment after July 1, 2001 2005, to comply with the provisions of subsection 1.

Approved April 15, 2005

CHAPTER 29**WATER QUALITY PROTECTION FUND — ACCOUNTS AND FEES***H.F. 291*

AN ACT relating to accounts and fees under the water quality protection fund.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 455B.183A, subsection 1, Code 2005, is amended to read as follows:

1. A water quality protection fund is created in the state treasury under the control of the department. The fund consists of moneys appropriated to the fund by the general assembly, moneys deposited into the fund from fees described in subsection 2, moneys deposited into the fund from fees collected pursuant to sections 455B.187 and 455B.190A, and other moneys available to and obtained or accepted by the department from the United States government or private sources for placement in the fund. The fund is divided into ~~three accounts, including the administration account,~~ the public water supply system account, and the private water supply system account. Moneys in the ~~administration~~ public water supply system account are appropriated to the department for purposes of carrying out the provisions of this division, which relate to the administration, regulation, and enforcement of the federal Safe Drinking Water Act. ~~Moneys in the public water supply system account are appropriated to the department,~~ and to support the program to assist supply systems, as provided in section 455B.183B. Moneys in the private water supply system account are appropriated to the department for the purpose of supporting the programs established to protect private drinking water supplies as provided in sections 455B.187, 455B.188, 455B.190, and 455B.190A.

Sec. 2. Section 455B.183A, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. The operation of a public water supply system, including any part of the system. The commission shall adopt a fee schedule which shall be based on the total number of persons served by public water supply systems in this state. However, a public water supply system shall be assessed a fee of at least twenty-five dollars. A public water supply system not owned or operated by a community and serving a transient population shall be assessed a fee of twenty-five dollars. The commission shall calculate all fees in the schedule to produce total revenues equaling three hundred fifty thousand dollars for each fiscal year, commencing with the fiscal year beginning July 1, 1995, and ending June 30, 1996. For each fiscal year, ~~one-half of the fees shall be deposited into the administration account and one-half of the fees shall be deposited into the public water supply system account.~~ By May 1 of each year, the department shall estimate the total revenue expected to be collected from the overpayment of fees, which are all fees in excess of the amount of the total revenues which are expected to be collected under the current fee schedule, and the total revenue expected to be collected from the payment of fees during the next fiscal year. The commission shall adjust the fees if the estimate exceeds the amount of revenue required to be deposited in the ~~fund~~ account pursuant to this paragraph.

Approved April 15, 2005

CHAPTER 30**IOWA FINANCE AUTHORITY —
QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS***H.F. 370*

AN ACT allowing the Iowa finance authority to issue qualified residential rental project bonds under the private activity bond allocation Act.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 7C.3, Code 2005, is amended by adding the following new subsection: **NEWSUBSECTION.** 8A. “Qualified residential rental project bond” means a qualified residential rental project bond as defined in section 142(d) of the Internal Revenue Code.

Sec. 2. Section 7C.4A, subsection 1, Code 2005, is amended to read as follows:

1. Thirty percent of the state ceiling shall be allocated solely to the Iowa finance authority for any of the following purposes:

- a. Issuing qualified mortgage bonds.
- b. Reallocating the amount, or any portion thereof, to another qualified political subdivision for the purpose of issuing qualified mortgage bonds; ~~or,~~
- c. Exchanging the allocation, or any portion thereof, for the authority to issue mortgage credit certificates by election under section 25(c) of the Internal Revenue Code.
- d. Issuing qualified residential rental project bonds.

However, at any time during the calendar year the executive director of the Iowa finance authority may determine that a lesser amount need be allocated to the Iowa finance authority and on that date this lesser amount shall be the amount allocated to the authority and the excess shall be allocated under subsection 7.

Approved April 15, 2005

CHAPTER 31**SOLID WASTE MANAGEMENT AND DISPOSAL***H.F. 399*

AN ACT relating to the disposal of solid waste by planning areas and related solid waste management plans and reports.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 455B.305, Code 2005, is amended by adding the following new subsection:

NEWSUBSECTION. 7. The director shall not issue or renew a permit for a transfer station operating as part of an agreement between two planning areas pursuant to section 455B.306, subsection 1A, until the applicant, in conjunction with all local governments using the transfer station, documents that alternative methods of solid waste disposal other than final disposal in a sanitary landfill have been implemented as set forth in the plan filed pursuant to section 455B.306.

Sec. 2. Section 455B.306, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A city, county, and a private agency operating or planning to operate a sanitary disposal project shall file with the director a one of two types of comprehensive plan plans detailing the method by which the city, county, or private agency will comply with this part 1. The first type is a comprehensive plan in which solid waste is disposed of in a sanitary landfill within the planning area. The second type is a comprehensive plan in which all solid waste is consolidated at and transported from a transfer station for disposal at a sanitary landfill in another comprehensive planning area.

PARAGRAPH DIVIDED. All cities and counties shall also file with the director a comprehensive plan detailing the method by which the city or county will comply with the requirements of section 455B.302 to establish and implement a comprehensive solid waste reduction program for its residents.

Sec. 3. Section 455B.306, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. A planning area that closes all of the municipal solid waste sanitary landfills located in the planning area and chooses to use a municipal solid waste sanitary landfill in another planning area that complies with all requirements under subtitle D of the federal Resource Conservation and Recovery Act, with all solid waste generated within the planning area being consolidated at and transported from a permitted transfer station, may elect to retain autonomy as a planning area and shall not be required to join the planning area where the landfill being used for final disposal of solid waste is located. If a planning area makes the election under this subsection, the planning area receiving the solid waste from the planning area making the election shall not be required to include the planning area making the election in a comprehensive plan provided no services are shared between the two planning areas other than the acceptance of solid waste for sanitary landfill. The planning area receiving the solid waste shall only be responsible for the permitting, planning, and waste reduction and diversion programs in the planning area receiving the solid waste. If the department determines that solid waste cannot reasonably be consolidated and transported from a particular transfer station, the department may establish permit conditions to address the transport and disposal of the solid waste. An election may be made under this subsection only if the two comprehensive planning areas enter into an agreement pursuant to chapter 28E that includes, at a minimum, all of the following:

a. A detailed methodology of the manner in which solid waste will be tracked and reported between the two planning areas.

b. A detailed methodology of the manner in which the receiving sanitary landfill will collect, remit, and report tonnage fees, pursuant to section 455B.310, paid by the planning area that is transporting the solid waste. The methodology shall include both the remittances of tonnage fees to the state and the retained tonnage fees.

Sec. 4. Section 455B.306, subsection 6, paragraph e, Code 2005, is amended to read as follows:

e. A description of the planning area and service area to be served by the city, county, or private agency under the comprehensive plan. A Except as provided in subsection 1A, a comprehensive plan shall not include a planning area or service area, any part of which is included in another comprehensive plan.

Sec. 5. Section 455B.310, subsection 4, paragraph d, Code 2005, is amended to read as follows:

d. Each sanitary landfill owner or operator shall submit a return to the department identifying the use of all fees retained under this section including the manner in which the fees were distributed. A planning area entering into an agreement pursuant to section 455B.306, subsection 1A, shall submit such information to the department and a planning area receiving the solid waste under such an agreement shall, in addition, submit evidence to the department

demonstrating that required retained fees were returned in a timely manner to other planning areas under the agreement. The return shall be submitted concurrently with the return required under subsection 7.

Sec. 6. Section 455B.310, subsection 7, Code 2005, is amended to read as follows:

7. Fees imposed by this section shall be paid to the department on a quarterly basis with payment due by no more than ninety days following the quarter during which the fees were collected. The payment shall be accompanied by a return which shall identify the amount of fees to be allocated to the landfill alternative financial assistance program, the amount of fees, in terms of cents per ton, retained for meeting waste reduction and recycling goals under section 455D.3, and additional fees imposed for failure to meet the twenty-five percent waste reduction and recycling goal under section 455D.3. Sanitary landfills serving more than one planning area shall submit separate reports for each planning area.

Approved April 15, 2005

CHAPTER 32

INTERSTATE NATURAL GAS PIPELINES

H.F. 581

AN ACT relating to interstate natural gas pipelines including requirements regarding construction, operation, and maintenance, applicable penalties and resultant damages, and easements.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 306A.3, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The department shall adopt rules, pursuant to chapter 17A, embodying a utility accommodation policy which imposes reasonable restrictions on placements occurring on or after the effective date of the rules, on primary road rights-of-way. The rules may require utilities to give notice to the department prior to installation of a utility system on a primary road right-of-way and obtain prior permission from the department for the proposed installation. The rules shall recognize emergency situations and the need for immediate installation of service extensions subject to the standards adopted by the department and the utilities board. The rules shall be no less stringent than the standards adopted by the utilities board pursuant to chapters 478, 479, 479A, and 479B. This paragraph shall not be construed as granting the department authority which has been expressly granted to the utilities board to determine the route of utility installations. If the department requires a utility company permit, the department shall be required to act upon the permit application within thirty days of its filing. In cases of federal-aid highway projects on nonprimary highways, the local authority with jurisdiction over the highway and the department shall comply with all federal regulations and statutes regarding utility accommodation.

Sec. 2. Section 479A.1, Code 2005, is amended to read as follows:

479A.1 PURPOSE.

It is the purpose of the general assembly in enacting this law to confer upon the utilities

board the power and authority to implement certain controls over the transportation of natural gas to protect landowners and tenants from environmental or economic damages which may result from the construction, operation, or maintenance of a pipeline within the state. It is also the purpose of the general assembly in enacting this law to provide for the board to act as an agent for the federal government in determining pipeline company compliance with the standards of the federal government for pipelines within the boundaries of the state.

Sec. 3. Sections 479A.3, 479A.5, 479A.6, 479A.8, 479A.10, 479A.12 through 479A.17, and 479A.19 through 479A.28, Code 2005, are repealed.

Approved April 15, 2005

CHAPTER 33

HOUSEHOLD HAZARDOUS WASTE — COLLECTION, TRANSPORTATION, AND DISPOSAL

H.F. 602

AN ACT relating to the collection, transportation, and disposal of household hazardous waste.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 455F.8A, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A private agency which provides for the collection and disposal of household hazardous waste as part of an approved comprehensive plan pursuant to section 455B.306 shall be eligible for reimbursement moneys pursuant to section 455E.11, subsection 2, paragraph “a”, subparagraph (2), subparagraph subdivision (e).

Sec. 2. Section 455E.11, subsection 2, paragraph a, subparagraph (2), subparagraph subdivision (d), Code 2005, is amended to read as follows:

(d) ~~Nine~~ For the fiscal year beginning July 1, 2005, nine and one-half percent to the department to establish permanent household hazardous waste collection sites so that both urban and rural populations are served and so that collection services are available to the public on a regular basis. Beginning July 1, 2006, six and one-quarter percent to the department to establish permanent household hazardous waste collection sites so that both urban and rural populations are served and so that collection services are available to the public on a regular basis. Beginning July 1, 2007, three percent to the department to establish permanent household hazardous waste collection sites so that both urban and rural populations are served and so that collection services are available to the public on a regular basis. Any moneys collected pursuant to this subparagraph subdivision that remain unexpended at the end of a fiscal year for establishment of permanent household hazardous waste collection sites shall be used for purposes of subparagraph subdivision (e).

Sec. 3. Section 455E.11, subsection 2, paragraph a, subparagraph (2), subparagraph subdivision (e), Code 2005, is amended to read as follows:

(e) ~~Three~~ For the fiscal year beginning July 1, 2005, three percent to the department for pay-

ment of transportation costs related to household hazardous waste collection programs. Beginning July 1, 2006, six and one-quarter percent to the department for payment of transportation costs related to household hazardous waste collection programs. Beginning July 1, 2007, nine and one-half percent to the department for payment of transportation costs related to household hazardous waste collection programs.

Approved April 15, 2005

CHAPTER 34

POWERS AND DUTIES OF COUNTY TREASURERS — TAXES, FEES, AND EVIDENCE OF OWNERSHIP

S.F. 265

AN ACT relating to delinquent property taxes and other duties of the county treasurer and including effective date and applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 311.18, Code 2005, is amended to read as follows:

311.18 ASSESSMENT DELINQUENT — INTEREST.

The assessed taxes shall become delinquent from October 1 after their maturity ~~including those instances. However,~~ when the last day of September is a Saturday or Sunday, the assessed taxes shall become delinquent from the second business day of October. Taxes assessed pursuant to this chapter which become delinquent shall bear the same interest, and be attended with the same rights and remedies for collection, as ordinary taxes.

Sec. 2. Section 317.21, subsection 1, Code 2005, is amended to read as follows:

1. Annually, after the weed commissioner has completed the program of destruction of weeds by reason of noncompliance by persons responsible for the destruction, the board of supervisors shall determine as to each tract of real estate the actual cost of labor and materials used by the commissioner in cutting, burning, or otherwise destroying the weeds, the cost of serving notice, and of special meetings or proceedings, if any. To the total of all sums expended, the board shall add an amount equal to twenty-five percent of that total to compensate for the cost of supervision and administration and assess the resulting sum against the tract of real estate by a special tax, which shall be certified to the county auditor and county treasurer by the clerk of the board of supervisors, and shall be placed upon the tax books, and collected, with interest after delinquent, in the same manner as other unpaid taxes. The tax shall be due on March 1 after assessment, and shall be delinquent from April 1 after due, ~~including those instances. However,~~ when the last day of March is a Saturday or Sunday, such amount shall be delinquent from the second business day of April. When collected, the moneys shall be paid into the fund from which the costs were originally paid.

Sec. 3. Section 321.20, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Except as provided in this chapter, an owner of a vehicle subject to registration shall make application to the county treasurer of the county of the owner's residence, or if a nonresident, to the county treasurer of the county where the primary users of the vehicle are located, or if

a lessor of the vehicle pursuant to chapter 321F which vehicle has a gross vehicle weight of less than ten thousand pounds, to the county treasurer of the county of the lessee's residence, for the registration and issuance of a certificate of title for the vehicle upon the appropriate form furnished by the department. However, upon the transfer of ownership, the owner of a vehicle subject to the proportional registration provisions of chapter 326 shall make application for registration and issuance of a certificate of title to either the department or the appropriate county treasurer. The application shall be accompanied by a fee of ten dollars, and shall bear the owner's signature. A nonresident owner of two or more vehicles subject to registration may make application for registration and issuance of a certificate of title for all vehicles subject to registration to the county treasurer of the county where the primary user of any of the vehicles is located. The owner of a mobile home or manufactured home shall make application for a certificate of title under this section from the county treasurer of the county where the mobile home or manufactured home is located. The application shall contain:

Sec. 4. Section 321.42, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. After five days, the department or county treasurer shall issue a replacement copy using the applicant's most recent bona fide address; however, the five-day waiting period does not apply to an applicant who is a lienholder or to an applicant who has surrendered the original certificate of title to the department or county treasurer. The replacement copy shall be clearly marked "replacement" and shall include security interests and liens. When a replacement copy has been issued, the previous certificate is void. The department or county treasurer is not authorized to refund fees collected for a replacement title under this section or section 321.52A.

Sec. 5. Section 321.46, subsection 1, Code 2005, is amended to read as follows:

1. The transferee shall, within thirty calendar days after purchase or transfer, apply for and obtain from the county treasurer of the person's residence or, if a nonresident, the county treasurer of the county where the primary users of the vehicle are located or the county where all other vehicles owned by the nonresident are registered, or, in the case of a mobile home or manufactured home, the county treasurer of the county where the mobile home or manufactured home is located, a new registration and a new certificate of title for the vehicle except as provided in section 321.25, 321.48, or 322G.12. The transferee shall present with the application the certificate of title endorsed and assigned by the previous owner and shall indicate the name of the county in which the vehicle was last registered and the registration expiration date.

Sec. 6. Section 321.47, unnumbered paragraph 1, Code 2005, is amended to read as follows:

If ownership of a vehicle is transferred by operation of law upon inheritance, devise or bequest, dissolution decree, order in bankruptcy, insolvency, replevin, foreclosure or execution sale, abandoned vehicle sale, or when the engine of a motor vehicle is replaced by another engine, or a vehicle is sold or transferred to satisfy an artisan's lien as provided in chapter 577, a landlord's lien as provided in chapter 570, a storage lien as provided in chapter 579, a judgment in an action for abandonment of a manufactured or mobile home as provided in chapter 555B, upon presentation of an affidavit relating to the disposition of a valueless mobile, modular, or manufactured home as provided in chapter 555C, or repossession is had upon default in performance of the terms of a security agreement, the county treasurer in the transferee's county of residence or, in the case of a mobile home or manufactured home, the county treasurer of the county where the mobile home or manufactured home is located, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof to the county treasurer of ownership and right of possession to the vehicle and upon payment of a fee of ten dollars and the presentation of an application for registration and certificate of title, may issue to the applicant a regis-

tration card for the vehicle and a certificate of title to the vehicle. A person entitled to ownership of a vehicle under a decree of dissolution shall surrender a reproduction of a certified copy of the dissolution and upon fulfilling the other requirements of this chapter is entitled to a certificate of title and registration receipt issued in the person's name.

Sec. 7. Section 331.553, subsection 6, Code 2005, is amended to read as follows:

6. Require a payor or an agent of a payor to make payment by electronic transfer of the funds through the county treasurer's authorized website when the payment totals one hundred fifty thousand dollars or more.

Sec. 8. Section 331.553, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Treat a payment made by electronic funds transfer as if it were a paper check for purposes of section 554.3512.

Sec. 9. Section 384.60, subsection 2, Code 2005, is amended to read as follows:

2. On or before the second publication of the notice, the clerk shall send by mail to each property owner whose property is subject to assessment for the improvement, as shown by the records in the office of the county auditor, a copy of the notice. The notice shall also include a statement in substance that assessments may be paid in full or in part without interest within thirty days after the date of the first notice of the final assessment schedule, and thereafter all unpaid special assessments bear interest at the rate specified by the council, but not exceeding that permitted by chapter 74A, computed to the December 1 next following the due dates of the respective installments as provided in section 384.65, subsection 3, and each installment will be delinquent from October 1 following its due date, including those instances. However, when the last day of September is a Saturday or Sunday, and that amount shall be delinquent from the second business day of October. Delinquent installments will draw additionally the same delinquent interest as ordinary taxes. The notice shall also state substantially that property owners may elect to pay any installment semiannually in advance. If a property is shown by the records to be in the name of more than one owner at the same mailing address, a single notice may be mailed to all owners at that address. Failure to receive a mailed notice is not a defense to the special assessment or interest due on the special assessment.

Sec. 10. Section 384.65, subsection 4, Code 2005, is amended to read as follows:

4. Each installment of an assessment with interest on the unpaid balance is delinquent from October 1 after its due date, including those instances when the last day of September is a Saturday or Sunday, and bears the same delinquent interest as ordinary taxes. However, when the last day of September is a Saturday or Sunday, the unpaid balance of the installment is delinquent from the second business day of October after its due date. When collected, the interest must be credited to the same fund as the special assessment.

To avoid interest on delinquent special assessment installments, a payment of the full installment amount must be received by the treasurer on or before the last business day of the month preceding the delinquent date, or mailed with appropriate postage and applicable fees paid, and a United States postal service postmark affixed to the payment envelope, with the postmark bearing a date preceding the delinquent date. Items returned to the sender by the United States postal service for insufficient postage or applicable fees shall be assessed interest, unless the appropriate postage and fees are paid and the items are postmarked again before the delinquent date. However, if the last calendar day of a month falls on a Saturday, Sunday, or a holiday, that amount becomes delinquent on the second business day of the following month.

To avoid interest on current or delinquent special assessment installments, for payments made through a county treasurer's authorized website only, if the last day of the month falls on a Saturday, Sunday, or a holiday, the electronic payment must be initiated by midnight on the first business day of the next month. All other electronic payments must be initiated by midnight on the last day of the month preceding the delinquent date.

Sec. 11. Section 435.24, subsection 6, Code 2005, is amended to read as follows:

6. a. As an alternative to the semiannual or annual payment of taxes, the county treasurer may accept partial payments of current year home taxes. ~~A minimum payment amount shall be established by the treasurer.~~ The treasurer shall transfer amounts from each taxpayer's account to be applied to each semiannual tax installment prior to the delinquency dates specified in section 445.37 and the amounts collected shall be apportioned by the tenth of the month following transfer. If, prior to the due date of each semiannual installment, the account balance is insufficient to fully satisfy the installment, the treasurer shall transfer and apply the entire account balance, leaving an unpaid balance of the installment. Interest shall attach on the unpaid balance in accordance with section 445.39. Unless funds sufficient to fully satisfy the delinquency are received, the treasurer shall collect the unpaid balance as provided in sections 445.3 and 445.4 and chapter 446. Any remaining balance in a taxpayer's account in excess of the amount needed to fully satisfy an installment shall remain in the account to be applied toward the next semiannual installment. Any interest income derived from the account shall be deposited in the county's general fund to cover administrative costs. The treasurer shall send a notice with the tax statement or by separate mail to each taxpayer stating that, upon request to the treasurer, the taxpayer may make partial payments of current year home taxes.

b. Partial payment of taxes which are delinquent may be made to the county treasurer. ~~A minimum payment amount shall be established by the treasurer. The minimum payment must be equal to or exceed the interest, fees, and costs attributed to the oldest delinquent installment of the tax and For the installment being paid, payment shall first be applied toward any interest, fees, and costs accrued and the remainder applied to the tax due. A partial payment must equal or exceed the interest, fees, and costs of the installment being paid. A partial payment made under this paragraph~~ shall be apportioned in accordance with section 445.57. If the payment does not include the whole of any installment of the delinquent tax, the unpaid tax shall continue to accrue interest pursuant to section 445.39. Partial payment shall not be permitted in lieu of redemption if the property has been sold for taxes under chapter 446 and under any circumstances shall not constitute an extension of the time period for a sale under chapter 446.

Sec. 12. Section 445.5, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The treasurer may negotiate and charge a reasonable fee not to exceed the cost of producing the information for ~~the a requestor~~ described in paragraphs "c" through "e", for a tax statement or tax statement information provided by the treasurer.

Sec. 13. Section 445.5, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. The titleholder may make written request to the treasurer to have the tax statement delivered to a person or entity in lieu of to the titleholder. A fee shall not be charged by the treasurer for delivering the tax statement to such person in lieu of to the titleholder.

Sec. 14. Section 445.36A, Code 2005, is amended to read as follows:

445.36A PARTIAL PAYMENTS.

1. As an alternative to the semiannual or annual payment of taxes, the county treasurer may accept partial payments of taxes. ~~A minimum payment amount shall be established by the treasurer.~~ The treasurer shall transfer amounts from each taxpayer's account to be applied to each semiannual tax installment prior to the delinquency dates specified in section 445.37 and the amounts collected shall be apportioned by the tenth of the month following transfer. If, prior to the due date of each semiannual installment, the account balance is insufficient to fully satisfy the installment, the treasurer shall transfer and apply the entire account balance, leaving an unpaid balance of the installment. Interest shall attach on the unpaid balance in accordance with section 445.39. Unless funds sufficient to fully satisfy the delinquency are

received, the treasurer shall collect the unpaid balance as provided in sections 445.3 and 445.4 and chapter 446. Any remaining balance in a taxpayer's account in excess of the amount needed to fully satisfy an installment shall remain in the account to be applied toward the next semi-annual installment. Any interest income derived from the account shall be deposited in the county's general fund to cover administrative costs. The treasurer shall send a notice with the tax statement or by separate mail to each taxpayer stating that, upon request to the treasurer, the taxpayer may make partial payments of taxes.

2. Partial payment of taxes which are delinquent may be made to the county treasurer. ~~A minimum payment amount shall be established by the treasurer. The minimum payment must be equal to or exceed the interest and costs attributed to the oldest delinquent installment of the tax and~~ For the installment being paid, payment shall first be applied to any interest, fees, and costs accrued and the remainder applied to the taxes due. A partial payment must equal or exceed the amount of interest, fees, and costs of the installment being paid. A partial payment made under this subsection shall be apportioned in accordance with section 445.57. If the payment does not include the whole of any installment of the delinquent tax, the unpaid tax shall continue to accrue interest pursuant to section 445.39. Partial payment shall not be permitted in lieu of redemption if the property has been sold for taxes under chapter 446 and under any circumstances shall not constitute an extension of the time period for a sale under chapter 446.

Current year taxes may be paid at any time regardless of any outstanding prior year delinquent tax.

This section does not apply to the payment of manufactured or mobile home taxes, special assessments, or rates or charges.

Sec. 15. Section 446.16, subsection 1, Code 2005, is amended to read as follows:

1. The person who offers to pay the total amount due, which is a lien on any parcel, for the smallest percentage of the parcel is the purchaser, and when the purchaser designates the percentage of any parcel for which the purchaser will pay the total amount due, the percentage thus designated shall give the person an undivided interest upon the issuance of a treasurer's deed, as provided in chapter 448. If two or more persons have placed an equal bid and the bids are the smallest percentage offered, the county treasurer shall use a random selection process to select the bidder to whom a certificate of purchase will be issued. The percentage that may be designated by any purchaser under this subsection shall not be less than one percent.

Sec. 16. Section 446.19A, subsections 1 through 4, Code 2005, are amended to read as follows:

1. The board of supervisors of a county may adopt an ordinance authorizing the county and each city in the county to bid on and purchase delinquent taxes and to assign tax sale certificates of abandoned property or vacant lots. This section may only be used by a county or by a city in the county if such an ordinance is in effect.

2. On the day of the regular tax sale or any continuance or adjournment of the tax sale, the county or a city may bid for abandoned property assessed as residential property or as commercial multifamily housing property or for a vacant lot a sum equal to the total amount due. Money shall not be paid by the county or city for the purchase, but each of the tax-levying and tax-certifying bodies having any interest in the taxes shall be charged with the total amount due the tax-levying or tax-certifying body as its just share of the purchase price. Prior to the purchase, the county or city shall file with the county treasurer a verified statement that a parcel to be purchased is abandoned ~~and deteriorating in condition or is, or is likely to become, a public nuisance property~~, and that the parcel is suitable for use as housing following rehabilitation or that a parcel to be purchased is a vacant lot.

3. If after the date that a parcel is sold pursuant to this chapter, or after the date that a parcel is sold under section 446.18, 446.38, or 446.39, the parcel assessed as residential property or as commercial multifamily housing property is identified as abandoned or as a vacant lot pursuant to a verified statement filed with the county treasurer by a city or county in the form set

forth in subsection 2, a city or county may require the assignment of the tax sale certificate that had been issued for such parcel by paying to the holder of such certificate the total amount due on the date the assignment of the certificate is made to the county or city and recorded with the county treasurer. If a certificate holder fails to assign the certificate of purchase to the city or county, the county treasurer is authorized to issue a duplicate certificate of purchase, which shall take the place of the original certificate, and assign the duplicate certificate to the city or county. If the certificate is not assigned by the county or city pursuant to subsection 4, the county or city, whichever is applicable, is liable for the tax sale interest that was due the certificate holder pursuant to section 447.1, as of the date of assignment.

4. a. The city or county may assign the tax sale certificate obtained pursuant to this section. Persons who purchase certificates from the city or county under this subsection are liable for the total amount due the certificate holder pursuant to section 447.1.

b. All persons who purchase certificates from the city or county under this subsection shall demonstrate the intent to rehabilitate the abandoned property for habitation or build a residential structure on the vacant lot if the property is not redeemed. In the alternative, the county or city may, if title to the property has vested in the county or city under section 448.1, dispose of the property in accordance with section 331.361 or 364.7, as applicable.

Sec. 17. Section 446.19A, subsection 5, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

5. For purposes of this section:

a. "Abandoned property" means a lot or parcel containing a building which is used or intended to be used for residential purposes and which has remained vacant and has been in violation of the housing code of the city in which the property is located or of the housing code applicable in the county in which the property is located if outside the limits of a city, for a period of six consecutive months.

b. "Vacant lot" means a lot or parcel located in a city or outside the limits of a city in a county that contains no buildings or structures and that is zoned to allow for residential structures.

Sec. 18. Section 446.37, Code 2005, is amended to read as follows:

446.37 FAILURE TO OBTAIN DEED — CANCELLATION OF SALE.

After three years have elapsed from the time of any tax sale, and ~~action has not been completed during the time which qualifies the holder of a certificate to obtain a deed the holder of a certificate has not filed an affidavit of service of notice of expiration of right of redemption under section 447.12,~~ the county treasurer shall cancel the sale from the county system. However, this if the filing of affidavit of service is stayed by operation of law, the time period for the filing of the affidavit shall not expire until the later of six months after the stay has been lifted or three years from the time of the tax sale. This section does not apply to certificates of purchase at tax sale which are held by a county.

Sec. 19. Section 447.8, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

447.8 REDEMPTION AFTER DELIVERY OF DEED.

1. After the delivery of the treasurer's deed, a person entitled to redeem a parcel sold at tax sale shall do so only by an equitable action in the district court of the county where the parcel is located. The action may be maintained only by a person who was entitled to redeem the parcel during the ninety-day redemption period in section 447.12, except that such a person may assign the person's right of redemption or right to maintain the action to another person.

In order to establish the right to redeem, the person maintaining the action shall be required to prove to the court either that the person maintaining the action or a predecessor in interest was not properly served with notice in accordance with the requirements of sections 447.9 through 447.12, or that the person maintaining the action or a predecessor in interest acquired an interest in or possession of the parcel during the ninety-day redemption period in section 447.12. A person shall not be entitled to maintain such action by claiming that a different per-

son was not properly served with notice of expiration of right of redemption, if the person seeking to maintain the action, or the person's predecessor in interest, if applicable, was properly served with the notice. A person is not allowed to redeem a parcel sold for delinquent taxes in any other manner after the execution and delivery of the treasurer's deed.

2. The person maintaining the action shall name as defendants all persons claiming an interest in the parcel derived from the tax sale, as shown by the record.

3. If the court determines that notice was properly served, the court shall enter judgment holding that all rights of redemption are terminated and that the validity of the tax title or purported tax title is conclusively established as a matter of law.

4. If the court determines that notice was not properly served and that the person maintaining the action is entitled to redeem, the court shall so order. The order shall determine the rights, claims, and interests of all parties, including liens for taxes and claims for improvements made on or to the parcel by the person claiming under the tax title. The order shall establish the amount necessary to effect redemption. The redemption amount shall include the amount for redemption computed in accordance with section 447.1, including interest computed up to and including the date of payment of the total redemption amount to the clerk of court; the amount of all costs added to the redemption amount in accordance with section 447.13; and, in the event that the person claiming under the tax title has made improvements on or to the parcel after the treasurer's deed was issued, an amount equal to the value of all such improvements. The order shall direct that the person maintaining the action shall pay to the clerk of court, within thirty days after the date of the order, the total redemption amount established in the order.

5. Upon timely receipt of the payment, the court shall enter judgment declaring the treasurer's deed to be invalid and determining the resulting rights, claims, and interests of all parties to the action. In its judgment, the court shall direct the clerk of court to deliver the entire amount of the redemption payment to the person who previously claimed title under the treasurer's deed.

If the person maintaining the action fails to timely deliver payment of the total redemption amount to the clerk of court, the court shall enter judgment holding that all rights of redemption are terminated and that the validity of the tax title or purported tax title is conclusively established as a matter of law. No subsequent action shall be brought to challenge the treasurer's deed or to recover the parcel.

6. If an affidavit is filed pursuant to section 448.15 and if the time period for filing a claim under section 448.16 expires with no claims having been filed, all persons are thereafter barred and estopped from commencing an action under this section.

Sec. 20. Section 447.13, Code 2005, is amended to read as follows:

447.13 COST — FEE — REPORT.

The cost of serving the notice, including the cost of sending certified mail notices, and the cost of publication under section 447.10, if publication is required, shall be added to the amount necessary to redeem. The cost of a record search shall also be added to the amount necessary to redeem. However, if the certificate holder is other than a county, the search must be performed by an abstractor who is an active participant in the title guaranty program under section 16.91 or by an attorney licensed to practice law in the state of Iowa, and the amount of the cost of the record search that may be added to the amount necessary to redeem shall not exceed three hundred dollars.

PARAGRAPH DIVIDED. The county treasurer shall file the proof of service and statement of costs and record these costs against the parcel. The certificate holder or the holder's agent shall report in writing to the treasurer the amount of authorized costs incurred, and the treasurer shall file the statement. Costs not filed with the treasurer before a redemption is complete shall not be collected by the treasurer and may be recovered through a court action against the parcel owner by the certificate holder. If the parcel is held by a city or county, a city or county agency, or the Iowa finance authority, for use in an Iowa homesteading project, whether or not the parcel is the subject of a conditional conveyance granted under the project,

the costs incurred for repairs and rehabilitation work required and undertaken in order to make the parcel meet applicable building or housing code standards shall be added to the amount necessary to redeem.

~~For tax sale certificates of purchase held by a county, the cost of a record search and the cost of serving the notice, including the cost of mailing certified mail notices and the cost of publication under section 447.10, if publication is required, shall be added to the amount necessary to redeem.~~

Sec. 21. Section 448.6, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

448.6 ACTION TO CHALLENGE TREASURER'S DEED.

1. A deed executed by the county treasurer in conformity with the requirements of sections 448.2 and 448.3 shall be presumed to effect a valid title conveyance, and the treasurer's deed may be challenged only by an equitable action in the district court in the county in which the parcel is located. If the action seeks an order of the court to allow redemption after delivery of the treasurer's deed based on improper service of notice of expiration of right of redemption, the action shall be brought in accordance with section 447.8. If the action is not brought on that basis, the action shall be controlled by the provisions of this section.

2. A person shall not be permitted to maintain the action unless the person establishes that the person, or the person under whom the person claims title, had title to the parcel at the time of the sale, or that the title was obtained from the United States or this state after the sale, and that all amounts due upon the parcel for the applicable tax years have been paid by that person or by the person under whom that person claims title.

3. The person maintaining the action shall name as defendants the holder of the tax title and the treasurer of the county in which the parcel is located.

4. The person challenging the deed shall be required to prove, in order to invalidate the deed, any of the following:

- a. That the parcel was not subject to taxes for the year or years named in the deed.
- b. That the taxes had been paid before the sale.
- c. That the parcel had been redeemed from the sale and that the redemption was made for the use and benefit of persons having the right of redemption.
- d. That there had been an entire omission to list or assess the parcel, or to levy the taxes, or to give notice of the sale, or to sell the parcel.

5. If the court determines that the person challenging the treasurer's deed has established one or more of the elements required under subsection 4 to be proven in order to invalidate the deed, the court shall enter judgment declaring the deed to be invalid. The judgment shall order the treasurer to refund to the person claiming under the tax title all sums paid to the treasurer for the purchase of the tax sale certificate and for any subsequent taxes paid by the certificate holder. If the person claiming under the tax title is determined by the court to have made improvements to the parcel, the court shall enter judgment in favor of the person claiming under the tax title for an amount equal to the value of such improvements made after the treasurer's deed was issued, and such judgment shall be a lien on the parcel until paid.

6. If an affidavit is filed pursuant to section 448.15, and if the time period for filing a claim under section 448.16 expires with no claims having been filed, all persons are thereafter barred and estopped from commencing an action under this section.

Sec. 22. Section 448.12, Code 2005, is amended to read as follows:

448.12 LIMITATION OF ACTIONS.

An action under section 447.8 or 448.6 or for the recovery of a parcel sold for the nonpayment of taxes shall not be brought after three years from the execution and recording of the county treasurer's deed, ~~unless the owner is, at the time of the sale, a minor, a person with mental illness, or an inmate in an adult correctional institution, in which case the action must be brought within three years after the disability is removed.~~

This section, as amended by 1991 Iowa Acts, chapter 191, section 111, is effective for parcels

sold at tax sales occurring on or after April 1, 1992, and for disabilities removed on or after April 1, 1992. For tax sales occurring prior to April 1, 1992, the provisions of this section in effect on the date of the tax sale apply.

Sec. 23. Section 448.15, Code 2005, is amended to read as follows:

448.15 AFFIDAVIT BY TAX-TITLE HOLDER.

1. Immediately After taking possession of the parcel, after the issuance and recording of a tax deed or an instrument purporting to be a tax deed issued by a county treasurer of this state, the then owner or holder of the title or purported title may file with the county recorder of the county in which the parcel is located an affidavit substantially in the following form:

State of Iowa,)
..... County.) ss.

I,, being first duly sworn, on oath depose and say that on (date) the county treasurer issued a tax deed to (grantee) for the following described parcel:

..... ;
that the tax deed was filed for record in the office of the county recorder of county, Iowa, on (date), and appears in the records of the office in county as recorded in Book Page of the Records; and that claims title to an undivided percent interest in the parcel by virtue of the tax deed, or purported tax title.

Any person claiming any right, title, or interest in or to the parcel adverse to the title or purported title by virtue of the tax deed referred to shall file a claim with the recorder of the county where the parcel is located, within one hundred twenty days after the filing of this affidavit, the claim to set forth the nature of the interest, also the time and manner in which the interest claimed was acquired. A person who files such a claim shall commence an action to enforce the claim within sixty days after the filing of the claim. If a claimant fails to file a claim within one hundred twenty days after the filing of this affidavit, or files a claim but fails to commence an action to enforce the claim within sixty days after the filing of the claim, the claim thereafter shall be forfeited and cancelled without any further notice or action, and the claimant thereafter shall be forever barred and estopped from having or claiming any right, title, or interest in the parcel adverse to the tax title or purported tax title.

Subscribed and sworn to before me this day of (month), ... (year).

.....
Notary Public in and for
..... County, Iowa.

2. An owner or holder of a title or purported title who has entered into a lease agreement conveying possessory rights in the parcel to a tenant in possession shall be deemed to be in possession for purposes of filing an affidavit under this section.

3. For purposes of this section, if a tax deed or instrument purporting to be a tax deed has been issued to convey an undivided interest in the parcel of less than one hundred percent, the owner or holder of the tax title or purported tax title shall be deemed to be in possession and entitled to file the affidavit in subsection 1. However, before filing the affidavit, the owner or holder of the tax title or purported tax title shall serve a copy of the affidavit on any other person in possession of the parcel by sending a copy of the affidavit by both regular and certified mail to the person at the address of the parcel or at the person's last known address if different from the address of the parcel. Such service is deemed completed when the affidavit mailed by certified mail is postmarked for delivery. An affidavit of service shall be attached to, and filed with, the affidavit in subsection 1. The affidavit of service shall include the names and addresses of all persons served and the time of mailing.

Sec. 24. Section 448.16, Code 2005, is amended to read as follows:

448.16 CLAIMS ADVERSE TO TAX TITLE BARRED.

1. When the affidavit described in section 448.15 is filed it shall be notice to all persons, and

any person claiming any right, title, or interest in or to the parcel described adverse to the title or purported title by virtue of the tax deed referred to, shall file a claim with the county recorder of the county in which the parcel is located within one hundred twenty days after the filing of the affidavit, which claim shall set forth the nature of the interest, the time when and the manner in which the interest was acquired.

2. At the expiration of the period of one hundred twenty days, if no such claim has been filed, the validity of the tax title or purported tax title shall be conclusively established as a matter of law, and all persons shall thereafter be forever barred and estopped from having or claiming any right, title, or interest in the parcel adverse to the tax title or purported tax title, and no including but not limited to any claim alleging improper service of notice of expiration of right of redemption. An action shall not thereafter be brought to recover the parcel, and the then tax-title owner or owner of the purported challenge the tax deed or tax title shall also have acquired title to the parcel by adverse possession.

3. An action to enforce a claim filed under subsection 1 shall be commenced within sixty days after the date of filing the claim. The action may be commenced by the claimant, or a person under whom the claimant claims title, under either section 447.8 or 448.6. If an action by the claimant, or such other person, is not filed within sixty days after the filing of the claim, the claim thereafter shall be forfeited and cancelled without any further notice or action, and the claimant, or the person under whom the claimant claims title, thereafter shall be forever barred and estopped from having or claiming any right, title, or interest in the parcel adverse to the tax title or purported tax title.

Sec. 25. Section 448.7, Code 2005, is repealed.

Sec. 26. EFFECTIVE DATE AND APPLICABILITY DATE PROVISIONS.

1. This Act, being deemed of immediate importance, takes effect upon enactment.

2. The section of the Act amending section 446.37 applies to tax sale certificates of purchase in existence before the effective date of the Act, notwithstanding section 447.14, and to tax sale certificates of purchase issued on or after the effective date of the Act.

3. The remainder of this Act applies to parcels sold at tax sales occurring on or after June 1, 2005.

Approved April 19, 2005

CHAPTER 35

DEPARTMENT OF PUBLIC SAFETY — MISCELLANEOUS PROVISIONS

S.F. 283

AN ACT relating to the department of public safety by updating references, changing the names of divisions in the department, and changing practices and procedures.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 80.1A DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Commissioner" means the commissioner of public safety.
2. "Controlled substance" means the same as defined in section 124.101.
3. "Counterfeit substance" means the same as defined in section 124.101.

4. "Department" means the department of public safety.
5. "Peace officer" means a peace officer of the department as defined in section 97A.1.

Sec. 2. Section 80.6, Code 2005, is amended to read as follows:

80.6 IMPERSONATING PEACE OFFICER OR EMPLOYEE — UNIFORM.

Any person who impersonates ~~a member of the Iowa state patrol or other~~ a peace officer or employee of the department, or wears a uniform likely to be confused with the official uniform of any such officer or employee, with intent to deceive anyone, shall be guilty of a simple misdemeanor.

Sec. 3. Section 80.8, unnumbered paragraphs 1, 3, and 5, Code 2005, are amended to read as follows:

The commissioner of public safety, with the approval of the governor, shall appoint such ~~deputies, inspectors, officers, clerical workers and other employees~~ employ personnel as may be required to properly discharge the duties of ~~this~~ the department.

The salaries of ~~all members~~ peace officers and employees of the department and the expenses of the department shall be provided for by ~~the~~ a legislative appropriation therefor. The compensation of peace officers of the department shall be fixed according to grades as to rank and length of service by the commissioner with the approval of the ~~governor~~ department of administrative services, unless covered by a collective bargaining agreement that provides otherwise. The peace officers shall be paid additional compensation in accordance with the following formula: When peace officers have served for a period of five years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described five-year period; when peace officers have served for a period of ten years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described ten-year period, such sums being in addition to the increase provided herein to be paid after five years of service; when peace officers have served for a period of fifteen years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described fifteen-year period, such sums being in addition to the increases previously provided for herein; when peace officers have served for a period of twenty years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described twenty-year period, such sums being in addition to the increases previously provided for herein. While on active duty, each peace officer shall also receive a flat daily sum as fixed by the commissioner ~~with the approval of the governor~~ for meals unless the amount of the flat daily sum is covered by a collective bargaining agreement that provides otherwise.

~~Peace officer members~~ officers of the department excluded from the provisions of chapter 20 who are injured in the line of duty shall receive paid time off in the same manner as provided to ~~peace officer members~~ officers of the department covered by a collective bargaining agreement entered into between the state and the employee organization representing such covered ~~peace officer members~~ officers under chapter 20.

Sec. 4. Section 80.9, unnumbered paragraph 1, Code 2005, is amended to read as follows:

It shall be the duty of the department of public safety to prevent crime, to detect and apprehend criminals and to enforce such other laws as are hereinafter specified. ~~The members~~ A peace officer of the department of public safety, ~~except clerical workers therein~~, when authorized by the commissioner of public safety shall have and exercise all the powers of any other peace officer of the state.

Sec. 5. Section 80.9, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. When request is made by the mayor of any city, with the approval of the commissioner of public safety;

Sec. 6. Section 80.9, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

When ~~any member~~ a peace officer of the department ~~shall be~~ is acting in cooperation with any other local peace officer, or county attorney in general criminal investigation work, or when acting on a special assignment by the commissioner, the ~~member's~~ peace officer's jurisdiction ~~shall be of the peace officer is~~ is statewide.

Sec. 7. Section 80.9, subsection 4, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

4. The state patrol is established in the department. The patrol shall be under the direction of the commissioner. The number of supervisory officers shall be in proportion to the membership of the state patrol.

Sec. 8. Section 80.9, Code 2005, is amended by adding the following new subsection:

NEWSUBSECTION. 5. The department shall be primarily responsible for the enforcement of all laws and rules relating to any controlled substance or counterfeit substance, except for making accountability audits of the supply and inventory of controlled substances in the possession of pharmacists, physicians, hospitals, and health care facilities as defined in section 135C.1, as well as in the possession of any and all other individuals or institutions authorized to have possession of any controlled substances.

Sec. 9. Section 80.11, Code 2005, is amended to read as follows:

80.11 COURSE OF INSTRUCTION.

The course ~~or courses~~ of instruction for peace officers of the department shall include ~~instruction in the following subjects and such others as shall be deemed advisable by the college of law and the commissioner of public safety:~~

1. Criminal law.
2. ~~Identification of criminals and fingerprinting.~~
3. ~~Methods of criminal investigation.~~
4. ~~Rules of criminal evidence.~~
5. ~~Presentation of cases in court.~~
6. ~~Making of complaints and securing of criminal warrants.~~
7. ~~Securing and use of search warrants.~~
8. ~~How to secure extradition and return.~~
9. ~~Small arms instruction.~~
10. ~~Regulation of traffic.~~

11. First aid, at a minimum, be equal to the course of instruction required by the Iowa law enforcement academy pursuant to chapter 80B.

Sec. 10. Section 80.13, Code 2005, is amended to read as follows:

80.13 TRAINING SCHOOLS.

The commissioner of public safety ~~is authorized to~~ may hold a training school for peace officer candidates ~~for or members for peace officers~~ of the department of public safety, and may send to recognized training schools ~~such members~~ peace officers of the department as the commissioner may deem advisable. The expenses of such school of training shall be paid in the same manner as other expenses ~~of the patrol~~ paid by the department.

Sec. 11. Section 80.15, Code 2005, is amended to read as follows:

80.15 EXAMINATION — OATH — PROBATION — DISCIPLINE — DISMISSAL.

An applicant ~~for membership to be a peace officer~~ in the department of public safety, ~~except clerical workers and special agents appointed under section 80.7,~~ shall not be appointed as a member peace officer until the applicant has passed a satisfactory physical and mental examination. In addition, the applicant must be a citizen of the United States and be not less than twenty-two years of age. However, an applicant applying for assignment to provide protection

and security for persons and property on the grounds of the state capitol complex or a peace officer candidate shall not be less than eighteen years of age. The mental examination shall be conducted under the direction or supervision of the commissioner of public safety and may be oral or written or both. Each An applicant shall take an oath on becoming a member peace officer of the force department, to uphold the laws and Constitution of the United States and Constitution of the state State of Iowa. During the period of twelve months after appointment, ~~any member a peace officer~~ of the department of public safety, ~~except members of the present Iowa state patrol who have served more than six months,~~ is subject to dismissal at the will of the commissioner. After the twelve months' service, a member peace officer of the department, who was appointed after having passed the examinations, is not subject to dismissal, suspension, disciplinary demotion, or other disciplinary action resulting in the loss of pay unless charges have been filed with the department of inspections and appeals and a hearing held by the employment appeal board created by section 10A.601, if requested by the member peace officer, at which the member peace officer has an opportunity to present a defense to the charges. The decision of the appeal board is final, subject to the right of judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. However, these procedures as to dismissal, suspension, demotion, or other discipline do not apply to a member peace officer who is covered by a collective bargaining agreement which provides otherwise ~~nor and do not apply~~ to the demotion of a division head to the rank which the division head held at the time of appointment as division head, if any. A division head who is demoted has the right to return to the rank which the division head held at the time of appointment as division head, if any. All rules, except employment provisions negotiated pursuant to chapter 20, regarding the enlistment, appointment, and employment affecting the personnel of the department shall be established by the commissioner in consultation with the director of the department of administrative services, subject to approval by the governor.

Sec. 12. Section 80.17, Code 2005, is amended to read as follows:

80.17 GENERAL ALLOCATION OF DUTIES.

1. In general, the allocation of duties of the department of public safety shall be as follows:

- ~~1. a.~~ Commissioner's office.
- ~~2. b.~~ Division of statistics and records administrative services.
- ~~3. c.~~ Division of criminal investigation.
- ~~4. d.~~ Division of the Iowa state patrol.
- ~~5. e.~~ Division of state fire protection marshal.
- ~~6. f.~~ Division of inspection narcotics enforcement.
- ~~7. Division of capitol police.~~

2. The commissioner may appoint a chief, director, a first and second assistant to the director, and all other supervisory officers in each division. All appointments and promotions shall be made on the basis of seniority and a merit examination.

3. Nothing in the The aforesaid allocation of duties shall not be interpreted to prevent flexibility in interdepartmental operations or to forbid other divisional allocations of duties in the discretion of the commissioner ~~of public safety~~.

Sec. 13. Section 80.18, Code 2005, is amended to read as follows:

80.18 EXPENSES AND SUPPLIES — REIMBURSEMENT.

It shall be the duty of the The commissioner of public safety to shall provide for the members peace officers of the department when on duty, with suitable uniforms, subsistence, arms, equipment, quarters, and other necessary supplies, and also the expense and means of travel and boarding ~~the members of the department~~, according to rules made adopted by the commissioner, and as may be provided by appropriation.

The department may expend moneys from the support allocation of the department as reimbursement for replacement or repair of personal items of the department's peace officers or employees damaged or destroyed during the a peace officer's or employee's tour of duty course of employment. However, the reimbursement shall not exceed the greater of one hun-

dred fifty dollars ~~or the amount agreed to under the collective bargaining agreement~~ for each item. The department shall ~~establish~~ adopt rules in accordance with chapter 17A to ~~carry out the purpose of~~ administer this paragraph.

Sec. 14. Section 80.19, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The commissioner ~~of public safety~~ may ~~co-operate~~ cooperate with any recognized agency in the education of the public in highway safety.

Sec. 15. Section 80.20, Code 2005, is amended to read as follows:

80.20 DIVISIONAL HEADQUARTERS.

The commissioner ~~of public safety~~ may, subject to the approval of the governor, establish divisional headquarters at various places in the state. Supervisory officers may be at all times on duty in each district headquarters.

Sec. 16. Section 80.23, Code 2005, is amended to read as follows:

80.23 SPECIAL STATE AGENTS — MEANING.

~~Whenever mention is made, in the Code, of~~ If the term “special state agents” is used in the Code in connection with law enforcement, the ~~same term~~ shall be construed to mean ~~members~~ a peace officer of the state department of public safety.

Sec. 17. Section 80.24, Code 2005, is amended to read as follows:

80.24 MUNICIPAL AND INDUSTRIAL DISPUTES.

~~The police employees~~ A peace officer of the department shall not be used or called upon for service within any municipality ~~or~~ in any industrial dispute unless ~~actual~~ a threat of imminent violence has occurred therein exists, and then only either by order of the governor or on the request of the chief executive officer of the municipality or the sheriff of the county ~~wherein~~ where the dispute has occurred threat of imminent violence exists if such request is approved by the governor.

Sec. 18. Section 80.33, Code 2005, is amended to read as follows:

80.33 ACCESS TO DRUG RECORDS BY AGENTS PEACE OFFICERS.

~~Every~~ A person required by law to keep records, and ~~any~~ a carrier maintaining records with respect to any shipment containing any controlled or counterfeit substances shall, upon request of an authorized agent peace officer of the department of public safety, designated by the commissioner of public safety, permit such agent peace officer at reasonable times to have access to and copy such records. For the purpose of examining and verifying such records, an authorized agent peace officer of the department of public safety, designated by the commissioner of public safety, may enter at reasonable times any place or vehicle in which any controlled or counterfeit substance is held, manufactured, dispensed, compounded, processed, sold, delivered, or otherwise disposed of and inspect such place or vehicle, and the contents ~~thereof~~ of such place or vehicle. For the purpose of enforcing laws relating to controlled or counterfeit substances, and upon good cause shown, ~~personnel of the division of drug law enforcement in the~~ peace officer of the department of public safety shall be allowed to inspect audits and records in the possession of the state board of pharmacy examiners.

Sec. 19. Section 80.34, Code 2005, is amended to read as follows:

80.34 POWERS OF PEACE OFFICERS PEACE OFFICER — AUTHORITY.

~~Any~~ An authorized agent peace officer of the department of public safety designated to conduct examinations, investigations, or inspections and enforce the laws relating to controlled or counterfeit substances shall have all the powers authority of other peace officers and may arrest a person without warrant for offenses under this chapter committed in the agent's peace officer's presence or, in the case of a felony, if the agent peace officer has probable cause to believe that the person arrested has committed or is committing such offense. ~~Such officers~~ A peace officer of the department shall have the same powers authority as other peace officers

to seize controlled ~~or counterfeit~~ substances or articles used in the manufacture or sale of controlled ~~or counterfeit~~ substances which they have reasonable grounds to believe are in violation of law. Such controlled ~~or counterfeit~~ substances or articles shall be subject to condemnation.

Sec. 20. Section 80.36, Code 2005, is amended to read as follows:

80.36 MAXIMUM AGE.

A person shall not be employed as a peace officer in the department of public safety after attaining sixty-five years of age.

Sec. 21. Section 80.39, subsection 1, Code 2005, is amended to read as follows:

1. Personal property, except for motor vehicles subject to sale pursuant to section 321.89, and seizable property subject to disposition pursuant to chapter 809 or 809A, which personal property is found or seized by, turned in to, or otherwise lawfully comes into the possession of the department of public safety or a local law enforcement agency and which the department or agency does not own, shall be disposed of pursuant to this section. If by examining the property the owner or lawful custodian of the property is known or can be readily ascertained, the department or agency shall notify the owner or custodian by certified mail directed to the owner's or custodian's last known address, as to the location of the property. If the identity or address of the owner cannot be determined, notice by one publication in a newspaper of general circulation in the area where the property was found is sufficient notice. A published notice may contain multiple items.

Sec. 22. Section 97A.1, subsection 13, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

13. "Peace officer" means a member, except a non-peace officer member, of the division of state patrol, narcotics enforcement, state fire marshal, or criminal investigation, including but not limited to a gaming enforcement officer, who has passed a satisfactory physical and mental examination and has been duly appointed as a member of the department of public safety in accordance with section 80.15.

Sec. 23. Section 97A.3, subsection 1, Code 2005, is amended to read as follows:

1. All ~~peace officer~~ members of the division of ~~highway safety, uniformed force, and radio communications~~ state patrol and the division of criminal investigation and ~~bureau of identification~~ in the department of public safety, excepting the members of the clerical force, who are employed by the state of Iowa on July 4, 1949, and all persons thereafter employed as members of such divisions in the department of public safety or division of ~~drug law~~ narcotics enforcement and arson investigators or division of state fire marshal, except the members of the clerical force, shall be members of this system, except as otherwise provided in subsection 3. Effective July 1, 1994, gaming enforcement officers employed by the division of criminal investigation for excursion boat gambling enforcement activities, and fire prevention inspector peace officers employed by the department of public safety, ~~and employees of the division of capitol police, except clerical workers,~~ shall be members of this system, except as otherwise provided in subsection 3 or section 97B.42B. Such members shall not be required to make contributions under any other pension or retirement system of the state of Iowa, anything to the contrary notwithstanding.

Sec. 24. Section 97B.42B, subsection 1, paragraph c, Code 2005, is amended by striking the paragraph.

Sec. 25. Section 100B.13, subsections 1 and 4, Code 2005, are amended to read as follows:

1. A volunteer fire fighter preparedness fund is created as a separate and distinct fund in the state treasury under the control of the division of ~~state fire protection~~ marshal of the department of public safety.

4. Moneys in the volunteer fire fighter preparedness fund are appropriated to the division of ~~state fire protection marshal~~ of the department of public safety to be used annually to pay the costs of providing volunteer fire fighter training around the state and to pay the costs of providing volunteer fire fighting equipment.

Sec. 26. Section 100C.9, Code 2005, is amended to read as follows:

100C.9 DEPOSIT AND USE OF MONEYS COLLECTED.

1. All fees assessed pursuant to this chapter shall be retained as repayment receipts by the division of ~~state fire protection marshal~~ in the department of public safety and such fees received shall be used exclusively to offset the costs of administering this chapter.

2. Notwithstanding section 8.33, fees collected by the division of ~~state fire protection marshal~~ that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 27. Section 100C.10, subsection 1, Code 2005, is amended to read as follows:

1. A fire extinguishing system contractors advisory board is established in the division of ~~state fire protection marshal~~ of the department of public safety and shall advise the ~~state fire marshal division~~ on matters pertaining to the application and certification of fire extinguishing system contractors pursuant to this chapter.

Sec. 28. Section 123.14, Code 2005, is amended to read as follows:

123.14 BEER, WINE, AND LIQUOR LAW ENFORCEMENT.

1. ~~The division of beer and liquor law enforcement of the department of public safety, created pursuant to section 80.25,~~ is the primary beer, wine, and liquor law enforcement authority for this state.

2. ~~The other law enforcement divisions of the department of public safety, the county attorney, the county sheriff and the sheriff's deputies, and the police department of every city, and the alcoholic beverages division of the department of commerce, shall be supplementary aids to the division of beer and liquor law enforcement department of public safety.~~ Any neglect, misfeasance, or malfeasance shown by any peace officer included in this section shall be sufficient cause for the peace officer's removal as provided by law. ~~Nothing in this~~ This section shall not be construed to affect the duties and responsibilities of any county attorney or peace officer with respect to law enforcement.

3. ~~The division of beer and liquor law enforcement~~ department of public safety shall have full access to all records, reports, audits, tax reports and all other documents and papers in the alcoholic beverages division pertaining to liquor licensees and wine and beer permittees and their business.

Sec. 29. Section 124.510, unnumbered paragraph 2, Code 2005, is amended to read as follows:

This information is for the exclusive use of the division of narcotic ~~and drug~~ enforcement, in the department of public safety, and shall not be a matter of public record.

Sec. 30. Section 305.8, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. In consultation with the homeland security and emergency management division of the department of public safety ~~defense~~, establish policies, standards, and guidelines for the identification, protection, and preservation of records essential for the continuity or reestablishment of governmental functions in the event of an emergency arising from a natural or other disaster.

Sec. 31. CODE EDITOR DIRECTIVES.

1. The Code editor is directed to change the term "Iowa state patrol" to "state patrol" wher-

ever that term appears in the 2005 Code or in Acts enacted during a regular or extraordinary 2005 session of the general assembly, or in other Acts pending codification.

2. The Code editor is directed to change the term “division of criminal investigation and bureau of identification” to “division of criminal investigation” wherever the term appears in the 2005 Code or in Acts enacted during a regular or extraordinary 2005 session of the general assembly, or in other Acts pending codification.

Sec. 32. Sections 80.4, 80.5, 80.10, 80.12, 80.16, 80.25, 80.27, 80.30, and 80.35, Code 2005, are repealed.

Approved April 19, 2005

CHAPTER 36

REAL ESTATE BROKER AND SALESPERSON LICENSING — CRIMINAL HISTORY CHECKS

S.F. 320

AN ACT requiring performance of a criminal history check of applicants for real estate broker and salesperson licenses.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 543B.15, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 10. An applicant for an initial real estate broker’s or salesperson’s license shall be subject to a national criminal history check through the federal bureau of investigation. The commission shall request the criminal history check and shall provide the applicant’s fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation. The applicant shall authorize release of the results of the criminal history check to the real estate commission. The applicant shall pay the actual cost of the fingerprinting and criminal history check, if any. Unless the criminal history check was completed within the ninety calendar days prior to the date the license application is received by the real estate commission, the commission shall reject and return the application to the applicant. The results of a criminal history check conducted pursuant to this subsection shall not be considered a public record under chapter 22.

Approved April 19, 2005

CHAPTER 37
REGIONAL TRANSIT DISTRICTS
S.F. 339

AN ACT relating to regional transit districts.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 28M.3, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The commission appointed pursuant to section 28M.4 shall have and may exercise all powers of the board of supervisors in management and administration of the regional transit district as if it were was a board of supervisors and as if the regional transit district was a county enterprise under sections 331.462 through 331.469.

Sec. 2. Section 28M.4, subsection 1, Code 2005, is amended to read as follows:

1. The governing bodies of counties and cities participating in a regional transit district shall appoint a commission to manage and administer the regional transit district. Commission Unless otherwise provided in the chapter 28E agreement, commission members shall serve for staggered six-year terms. The agreement creating the regional transit district shall set the compensation of commission members.

Sec. 3. Section 28M.5, Code 2005, is amended to read as follows:

28M.5 REGIONAL TRANSIT DISTRICT LEVY.

1. The commission, with the approval of the board of supervisors of participating counties and the city council of participating cities in the chapter 28E agreement, may levy annually a tax not to exceed ninety-five cents per thousand dollars of the assessed value of all taxable property in a regional transit district to the extent provided in this section. The chapter 28E agreement may authorize the commission to levy the tax at different rates within the participating cities and counties in amounts sufficient to meet the revenue responsibilities of such cities and counties as allocated in the budget adopted by the commission. However, for a city participating in a regional transit district, the total of all the tax levies imposed in the city pursuant to section 384.12, subsection 10, and this section shall not exceed the aggregate of ninety-five cents per thousand dollars of the assessed value of all taxable property in the participating city.

2. The If a regional transit district budget allocates revenue responsibilities to the board of supervisors of a participating county, the amount of the regional transit district levy that is the responsibility of a the participating county shall be deducted from the maximum rates of taxes authorized to be levied by the county pursuant to section 331.423, subsections 1 and 2, as applicable, unless the county meets its revenue responsibilities as allocated in the budget from other available revenue sources. However, for a regional transit district that includes a county with a population of less than three hundred thousand, the amount of the regional transit district levy that is the responsibility of a such participating county shall be deducted from the maximum rate of taxes authorized to be levied by the county pursuant to section 331.423, subsection 1.

3. The regional transit district tax levy imposed in a participating city located in a nonparticipating contiguous county shall, when collected, be paid to the county treasurer of the participating county.

~~2.~~ 4. The proceeds of the tax levy shall be used for the operation and maintenance of a regional transit district, for payment of debt obligations of the district, and for the creation of a reserve fund. The commission may divide the territory of a regional transit district outside the boundaries of a city into separate service areas and impose a regional transit district levy not to exceed the maximum rate authorized by this section in each service area.

Sec. 4. NEW SECTION. 28M.6 EFFECT OF AGREEMENT ON COUNTY DUTY TO PROVIDE TRANSIT SERVICES.

Notwithstanding any provision of this chapter to the contrary, a county that enters into a chapter 28E agreement to create a regional transit district under this chapter, does not, by virtue of such agreement, create a duty on the part of the county to provide transit services to any area of the county.

Sec. 5. Section 331.461, subsection 2, paragraph h, Code 2005, is amended by striking the paragraph.

Approved April 19, 2005

CHAPTER 38

PROBATE — MISCELLANEOUS REVISIONS — TRUSTS

S.F. 379

AN ACT relating to the Iowa probate code, the Iowa trust code, and certain other trusts.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 249A.3, subsection 11, paragraph d, Code 2005, is amended to read as follows:

d. Failure of a surviving spouse to take ~~against a will~~ an elective share pursuant to chapter 633, division V, constitutes a transfer of assets for the purpose of determining eligibility for medical assistance to the extent that the value received by taking ~~against the will~~ an elective share would have exceeded the value of the inheritance received under the will.

Sec. 2. Section 633.3, subsection 15, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

15. ESTATE — the real and personal property of either a decedent or a ward, and may also refer to the real and personal property of a trust as defined in section 633.10.

Sec. 3. Section 633.3, subsection 17, Code 2005, is amended to read as follows:

17. FIDUCIARY — includes personal representative, executor, administrator, guardian, conservator, and the trustee of any trust as defined in section 633.10.

Sec. 4. Section 633.3, subsection 34, Code 2005, is amended to read as follows:

34. TRUSTEE — the person or persons ~~appointed as trustee by the instrument creating the trust, or the person or persons appointed by the court to administer the trust~~ serving as trustee of a trust as defined in section 633.10.

Sec. 5. Section 633.3, subsection 35, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

35. TRUSTS — includes only those trusts defined in section 633.10.

Sec. 6. Section 633.10, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The In addition to the jurisdiction granted the district court under the trust code or elsewhere, the district court sitting in probate shall have jurisdiction of:

Sec. 7. Section 633.10, subsection 2, Code 2005, is amended to read as follows:

2. CONSTRUCTION OF WILLS AND TRUST INSTRUMENTS.

The construction of wills ~~and trust instruments~~ during the administration of the estate ~~or trust~~, whether said construction be incident to such administration, or as a separate proceeding.

Sec. 8. Section 633.10, subsection 4, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

4. TRUSTS AND TRUSTEES.

a. The ongoing administration and supervision, including but not limited to the appointment of trustees, the granting of letters of trusteeship, trust administration, and trust settlement and closing, of the following trusts:

(1) A trust that was in existence on July 1, 2005, and that is subject to continuous court supervision.

(2) A trust established by court decree that is subject to continuous court supervision.

b. A trust described in paragraph "a" shall be governed by this chapter and the provisions of chapter 633A which are not inconsistent with the provisions of this chapter.

c. A trust not described in paragraph "a" shall be governed exclusively by chapter 633A and shall be subject to the jurisdiction of the district court sitting in probate only as provided in section 633.6101.

d. Upon joint application by all trustees administering a trust described in paragraph "a" and following notice to the beneficiaries pursuant to section 633.40, the court shall release the trust from further jurisdiction unless a beneficiary objects. The court whose decree created the trust may release the trust from continuous court supervision following notice to the beneficiary pursuant to section 633.40. If such judicial release occurs for a trust previously governed by this chapter, such trust shall be governed by chapter 633A and the district court sitting in probate only as provided in section 633.6101.

Sec. 9. Section 633.27, subsection 4, Code 2005, is amended to read as follows:

4. The title of each trust ~~where letters of trusteeship are issued~~ described in section 633.10 that has not been released by the court from continuous court supervision.

Sec. 10. Section 633.108, Code 2005, is amended to read as follows:

633.108 SMALL DISTRIBUTIONS TO MINORS — PAYMENT.

Whenever a minor becomes entitled under the terms of a will to a bequest or legacy, ~~or to a share of the estate of an intestate, or to a beneficial interest in a trust fund upon the distribution of the trust fund,~~ and the value of the bequest, legacy, ~~or share, or interest~~ does not exceed the sum of ~~ten~~ twenty-five thousand dollars, the personal representative ~~or trustee~~ may pay the bequest, legacy, ~~or share, or interest~~ to a custodian under any uniform transfers to minors Act. Receipt by the custodian, when presented to the court or filed with the report of distribution of the fiduciary, shall have the same force and effect as though the payment had been made to a duly appointed and qualified conservator for the minor.

Sec. 11. Section 633.197, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Personal representatives shall be allowed such reasonable fees as may be determined by the court for services rendered, but not in excess of the following commissions upon the gross assets of the estate listed in the probate inventory ~~for Iowa inheritance tax purposes~~, which shall be received as full compensation for all ordinary services:

Sec. 12. Section 633.236, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.236 RIGHT OF ELECTIVE SHARE OF SURVIVING SPOUSE.

When a married person domiciled in Iowa at the time of death dies, the surviving spouse shall have the right to take an elective share under the provisions of sections 633.237 through 633.246. If the surviving spouse has a conservator, the court may authorize or direct the conservator to elect the share as the court deems appropriate under the circumstances.

Sec. 13. Section 633.237, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.237 PRESUMPTION AGAINST FILING ELECTIVE SHARE.

1. Following the appointment of a personal representative of the estate of the decedent, who is not the spouse, the personal representative shall cause to be served a written notice upon the surviving spouse pursuant to section 633.40, subsection 5, notifying the surviving spouse that unless, within four months after service of the notice, the spouse files an election in writing with the clerk of court electing the share as set forth in section 633.236, and sections 633.238 through 633.246, the spouse shall be deemed to take under the will or to receive the intestate share. If, within the four-month period following service of the notice, an affidavit is filed setting forth that the surviving spouse is incapable of making the election and does not have a conservator, the personal representative shall make application to the court for an order pursuant to section 633.244.

2. Following the death of a settlor of a revocable trust, the trustee of such revocable trust who is not the spouse shall cause to be served a written notice upon the surviving spouse pursuant to section 633.40, subsection 5, notifying the surviving spouse that unless, within four months after service of the notice, the spouse files an election with the trustee electing the share as set forth in section 633.236, and sections 633.238 through 633.246, the spouse shall be deemed to take under the terms of the revocable trust. If, within the four-month period following service of the notice, an affidavit is filed setting forth that the surviving spouse is incapable of making the election and does not have a conservator, the trustee shall make application to the court for an order pursuant to section 633.244.

3. If the surviving spouse has a conservator, notice shall be given to the conservator and the spouse pursuant to subsections 1 and 2.

4. The notice provisions under subsections 1 and 2 are not applicable if the surviving spouse is a personal representative of the estate or a trustee of a revocable trust. If the surviving spouse fails to file an election under this section within four months of the decedent's death, it shall be conclusively presumed that the surviving spouse elects to take under the will, receive the intestate share, or take under the revocable trust.

5. Upon application of the surviving spouse or the spouse's conservator filed before the time for making the election expires, the court may extend the period in which the surviving spouse may make the election.

Sec. 14. Section 633.238, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.238 ELECTIVE SHARE OF SURVIVING SPOUSE.

1. The elective share of the surviving spouse shall be all of the following:

a. One-third in value of all the legal or equitable estates in real property possessed by the decedent at any time during the marriage which have not been sold on execution or other judicial sale, and to which the surviving spouse has made no express written relinquishment of right.

b. All personal property that, at the time of death, was in the hands of the decedent as the head of a family, exempt from execution.

c. One-third of all personal property of the decedent that is not necessary for the payment of debts and charges.

d. One-third in value of the property held in trust not necessary for the payment of debts and

charges over which the decedent was a grantor and retained at the time of death the power to alter, amend, or revoke the trust, or over which the decedent waived or rescinded any such power within one year of the date of death, and to which the surviving spouse has not made any express written relinquishment.

2. The elective share described in this section shall be in lieu of any property the spouse would otherwise receive under the last will and testament of the decedent, through intestacy, or under the terms of a revocable trust.

Sec. 15. Section 633.239, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.239 SHARE TO EMBRACE HOMESTEAD.

The share of the surviving spouse in such real estate shall be set off in such manner as to include the homestead, or so much thereof as will be equal to the share allotted to the spouse pursuant to section 633.238 unless the spouse prefers a different arrangement, but no such different arrangement shall be allowed unless there is sufficient property remaining to pay the claims and charges against the decedent's estate.

Sec. 16. Section 633.240, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.240 ELECTION TO RECEIVE HOMESTEAD.

In estates in which the surviving spouse has filed an election and in all intestate estates, whether an election is filed or not, the surviving spouse or the spouse's conservator, if applicable, may, in lieu of the spouse's share in the real property possessed by the decedent at any time during the marriage, which has not been sold on execution or other judicial sale, and to which the surviving spouse has made no express written relinquishment of right, elect to receive a life estate in the homestead. Such election shall be made and entered of record as provided in section 633.245. In making such election, the surviving spouse shall have all the rights as to the personal property provided in section 633.238, subsection 1, paragraphs "b", "c", and "d". In case of failure to make such election, the right to receive the life estate in the homestead shall be waived.

Sec. 17. Section 633.241, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.241 TIME FOR ELECTION TO RECEIVE LIFE ESTATE IN HOMESTEAD.

If the surviving spouse does not make an election to receive the life estate in the homestead and file it with the clerk within four months from the date of second publication of notice to creditors, it shall be conclusively presumed that the surviving spouse waives the right to make the election. The court on application may, prior to the expiration of the period of four months, for cause shown, enter an order extending the time for making the election.

Sec. 18. Section 633.242, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.242 RIGHTS OF ELECTION PERSONAL TO SURVIVING SPOUSE.

The right of the surviving spouse to take an elective share, and the right of the surviving spouse to receive a life estate in the homestead, are personal. They are not transferable and cannot be exercised for the spouse subsequent to the spouse's death. If the surviving spouse dies prior to filing an election, it shall be conclusively presumed that the surviving spouse does not take such elective share.

Sec. 19. Section 633.243, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.243 FILING ELECTIONS.

The filing of the elective share and the election to receive a life estate in the homestead shall be filed in the office of the clerk in which the decedent's estate is being administered and

served on the trustee of the revocable trust. The court where the election is filed shall have exclusive jurisdiction over all matters regarding elections under this chapter.

Sec. 20. Section 633.244, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.244 INCOMPETENT SPOUSE — ELECTION BY COURT.

In case an affidavit is filed that the surviving spouse is incapable of determining whether to take the elective share, or to elect to receive a life estate in the homestead, and does not have a conservator, the court shall fix a time and place of hearing on the matter and cause a notice thereof to be served upon the surviving spouse in such manner and for such time as the court may direct. At the hearing, a guardian ad litem shall be appointed to represent the spouse and the court shall enter such orders as it deems appropriate under the circumstances. The guardian ad litem shall be a practicing attorney.

Sec. 21. Section 633.246A, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.246A MEDICAL ASSISTANCE ELIGIBILITY.

Failure of a surviving spouse to make an election under this division constitutes a transfer of assets for the purpose of determining eligibility for medical assistance pursuant to chapter 249A to the extent that the value received by making the election would have exceeded the value of property received absent the election.

Sec. 22. Section 633.247, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.247 SETTING OFF ELECTIVE SHARE OF SURVIVING SPOUSE.

The share of the surviving spouse under section 633.236 may be set off by the mutual consent of all parties in interest, or by referees appointed by the court. An application to have the share set off by referees shall be made by an interested party in writing by filing with the clerk of court. A copy of such application shall be sent to all interested parties.

Sec. 23. Section 633.248, Code 2005, is amended to read as follows:

633.248 REFEREE — NOTICE.

In the absence of mutual consent of all interested parties to the appointment of referees, the court shall fix a time and place for hearing upon such application and of the fact that referees will be appointed if such application is granted, and shall prescribe the time and manner of the service of notice of the hearing.

Sec. 24. Section 633.252, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.252 CONFIRMATION CONCLUSIVE — POSSESSION.

An order confirming a report of the referee shall be binding and conclusive unless appealed within thirty days and the surviving spouse may bring an action to obtain possession of any assets set apart to the surviving spouse. Such elective share constitutes a judgment lien in favor of such surviving spouse against the possessor of such assets.

Sec. 25. Section 633.264, Code 2005, is amended to read as follows:

633.264 DISPOSAL OF PROPERTY BY WILL.

Subject to the rights of the surviving spouse to ~~elect to take against the will~~ an elective share as provided by section 633.236, any person of full age and sound mind may dispose by will of all the person's property, except sufficient to pay the debts and charges against the person's estate.

Sec. 26. Section 633.271, Code 2005, is amended to read as follows:

633.271 EFFECT OF DIVORCE OR DISSOLUTION.

1. If after making a will the testator is divorced or the testator's marriage is dissolved, all

provisions in the will in favor of the testator's spouse ~~or of a relative of the testator's spouse~~, including but not limited to dispositions, appointments ~~relating to~~ of property, and nominations to serve in any fiduciary or representative capacity, are ~~thereby revoked by the divorce or dissolution of marriage, unless the will provides otherwise.~~

2. ~~In Unless the will provides otherwise, in the event the testator and spouse remarry each other, the provisions of the will revoked by the divorce or dissolution of marriage shall be reinstated unless otherwise revoked by the testator, except for provisions in favor of a person who died prior to the remarriage which shall not be reinstated.~~

3. ~~For the purposes of this section, "relative of the testator's spouse" means a person who is related to the divorced testator's former spouse by blood, adoption, or affinity, and who, subsequent to a divorce or dissolution of marriage, ceased to be related to the testator by blood, adoption, or affinity.~~

Sec. 27. Section 633.434, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Upon the expiration of the later to occur of four months after the date of the second publication of notice to creditors or one month after the service of the notice by ordinary mail upon all claimants whose identities are reasonably ascertainable, at their last known addresses and whose claims will not or may not be paid or otherwise satisfied during administration, the personal representative shall pay the debts and charges against the estate in accordance with this probate code. If it appears at any time that the estate is or may be insolvent, that there are insufficient funds on hand, or that there is other good and sufficient cause, the personal representative may report that fact to the court and apply for any order that the personal representative deems necessary.

Sec. 28. Section 633.477, subsection 10, Code 2005, is amended to read as follows:

10. A statement as to whether or not all statutory requirements pertaining to taxes have been complied with ~~and a statement as to including~~ whether the federal estate tax due has been paid, ~~and whether a lien continues to exist for any federal estate tax, and whether inheritance tax was paid or a return was filed in this state.~~

Sec. 29. Section 633.574, Code 2005, is amended to read as follows:

633.574 PROCEDURE IN LIEU OF CONSERVATORSHIP.

If a conservator has not been appointed, money due a minor or other property to which a minor is entitled, not exceeding in the aggregate ~~ten~~ twenty-five thousand dollars in value, shall be paid or delivered to a custodian under any uniform transfers to minors Act. The written receipt of the custodian constitutes an acquittance of the person making the payment of money or delivery of property.

Sec. 30. Section 633.681, Code 2005, is amended to read as follows:

633.681 ASSETS OF MINOR WARD EXHAUSTED.

When the assets of a minor ward's conservatorship are exhausted or consist of personal property only of an aggregate value not in excess of ~~ten~~ twenty-five thousand dollars, the court, upon application or upon its own motion, may terminate the conservatorship. The order for termination shall direct the conservator to deliver any property remaining after the payment of allowed claims and expenses of administration to a custodian under any uniform transfers to minors Act. Such delivery shall have the same force and effect as if delivery had been made to the ward after attaining majority.

Sec. 31. Section 633.699, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.699 POWERS OF TRUSTEES.

Unless it is otherwise provided by the will creating a testamentary trust, the instrument creating an express trust, or by an order or decree duly entered by a court of competent jurisdiction, a trustee shall have all the powers granted a trustee under sections 633.4401 and

633.4402. Documents incorporating by reference powers granted a trustee under the probate code or under this section shall be interpreted accordingly, even if the execution or adoption of the instrument creating the trust occurred prior to July 1, 2005.

Sec. 32. NEW SECTION. 633.699B APPLICABILITY OF LAW.

The terms of this division, and all other terms of this probate code relating to trusts and trustees, shall apply only to trusts that remain under continuous court supervision pursuant to section 633.10 and to trusts that have not been released from such continuous supervision pursuant to section 633.10. Regarding all such trusts, the terms of this chapter shall supersede any inconsistent terms in the trust code and such trusts shall be governed by terms of the trust code that are not inconsistent with this probate code.

Sec. 33. Section 633.705, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 3. Receipt of the affidavit described in subsection 2 by the holder of the principal's property constitutes sufficient acquittance for the payment of money, delivery of property, or transfer of a registered ownership of property as directed by the attorney in fact or agent and discharges the holder from further liability with respect to the money or property, if the holder has taken reasonable steps to verify the identity of the person acting as attorney in fact or agent. The holder of the principal's property may rely in good faith on the statements contained in the affidavit and has no duty to inquire into the truth of any statements in the affidavit.

NEW SUBSECTION. 4. If an attorney in fact or agent has provided the affidavit described in subsection 2 and the holder of the principal's property refuses to pay, deliver, or transfer any property or evidence thereof within a reasonable amount of time, the principal, acting through the attorney in fact or agent, may recover the property or compel its payment, delivery, or transfer in an action brought for that purpose against the holder of the property.

a. If an action is brought against the holder under this subsection and the court finds that the holder of the principal's property acted unreasonably in refusing to pay, deliver, or transfer the property as directed by the attorney in fact, the court may award any or all of the following to the principal:

- (1) Damages sustained by the principal.
- (2) Costs of the action.
- (3) A penalty in an amount determined by the court, not less than five hundred dollars or more than one thousand dollars.
- (4) Reasonable attorney fees, as determined by the court, based on the value of the time reasonably expended by the attorney and not by the amount of the recovery on behalf of the principal.

b. No action shall be brought pursuant to this section more than one year after the date of the occurrence of the violation.

Sec. 34. Section 633.706, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 4. Receipt, by the holder of the principal's property, of the affidavit described in subsection 2 constitutes sufficient acquittance for the payment of money, delivery of property, or transfer of the registered ownership of property as directed by the attorney in fact or agent and discharges the holder from any further liability to any person with respect to the money or the property, if the holder has taken reasonable steps to verify the identity of the person acting as attorney in fact or agent. The holder of the principal's property may rely in good faith on the statements in the affidavit and has no duty to inquire into the truth of any of the statements in the affidavit.

NEW SUBSECTION. 5. If an attorney in fact or agent has provided the affidavit described in subsection 2 and the holder of the principal's property refuses to pay, deliver, or transfer any property or evidence thereof within a reasonable amount of time, the principal, acting through the attorney in fact may recover the property or compel its payment, delivery, or transfer in an action brought for that purpose against the holder of the property.

a. If an action is brought against the holder under this subsection and the court finds that the holder of the principal's property acted unreasonably in refusing to pay, deliver, or transfer the property as directed by the attorney in fact, the court may award any or all of the following to the principal:

- (1) Damages sustained by the principal.
- (2) Costs of the action.
- (3) A penalty in an amount determined by the court, not less than five hundred dollars or more than one thousand dollars.
- (4) Reasonable attorney fees, as determined by the court, based on the value of the time reasonably expended by the attorney and not by the amount of the recovery on behalf of the principal.

b. No action shall be brought pursuant to this section more than one year after the date of the occurrence of the violation.

Sec. 35. Section 633.1102, Code 2005, is amended by adding the following new subsection:
NEW SUBSECTION. 0A. "Adjusted gross estate", as it relates to a trust, means the same as defined in section 633.266.

Sec. 36. Section 633.1107, Code 2005, is amended to read as follows:
633.1107 SCOPE OF TRUST CODE.

1. ~~This Except as otherwise provided in subsection 2, this trust code is intended to shall~~ apply to trusts, as defined in section 633.1102, ~~subsection 17,~~ that are intentionally created, or deemed to be intentionally created, by individuals and other entities.

2. With regard to trusts described in section 633.10, that have not been judicially released from continuous court supervision, this trust code shall apply only to the extent not inconsistent with the relevant provisions of chapter 633. With regard to all other trusts defined in section 633.1102, the terms of chapter 633 shall be inapplicable, and the terms of this trust code shall prevail over any inconsistent provisions of Iowa law.

Sec. 37. Section 633.2208, Code 2005, is amended by adding the following new subsection:
NEW SUBSECTION. 3. By way of illustration and without limitation, a trust may be divided pursuant to this section to allow a trust to qualify as a marital deduction trust for tax purposes, as a qualified subchapter S trust for federal income tax purposes, as a separate trust for federal generation skipping tax purposes, or for any other federal or state income, estate, excise, or inheritance tax benefit, or to facilitate the administration of a trust.

Sec. 38. Section 633.2301, subsection 4, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A creditor or assignee of a beneficiary of a spendthrift trust shall ~~may~~ not compel a distribution that is subject to the trustee's discretion ~~if any of the following apply~~ despite the fact that:

Sec. 39. Section 633.2303, Code 2005, is amended by adding the following new subsection:
NEW SUBSECTION. 3. The assets of an irrevocable trust shall not become subject to the claims of creditors of the settlor of a trust solely due to a provision in the trust that allows a trustee of the trust to reimburse the settlor for income taxes payable on the income of the trust. This subsection shall not limit the rights of a creditor of the settlor to assert a claim against the assets of the trust due to the retention or grant of any rights to the settlor under the trust instrument or any other beneficial interest of the settlor other than as specifically set forth in this subsection.

Sec. 40. Section 633.3107, Code 2005, is amended to read as follows:
633.3107 EFFECT OF DIVORCE OR DISSOLUTION.

1. If, after executing a revocable trust, the settlor is divorced or the settlor's marriage is dissolved, all provisions in the trust in favor of the settlor's spouse or of a relative of the settlor's spouse, including, but not limited to, dispositions, appointments of property, and nominations

to serve in any fiduciary or representative capacity are revoked by divorce or dissolution of marriage unless the trust instrument provides otherwise.

2. ~~In~~ Unless the trust instrument provides otherwise, in the event the settlor and spouse remarry each other, the provisions of the revocable trust revoked by the divorce or dissolution of marriage shall be reinstated unless otherwise modified by the settlor, except for provisions in favor of a person who died prior to the remarriage which shall not be reinstated.

For the purposes of this section, "relative of the settlor's spouse" means a person who is related to the divorced settlor's former spouse by blood, adoption, or affinity, and who, subsequent to the divorce or dissolution of marriage, ceased to be related to the settlor by blood, adoption, or affinity.

Sec. 41. NEW SECTION. 633.3112 CLASSIFICATION OF DEBTS AND CHARGES.

If a revocable trust becomes subject to the claims of a settlor's creditors and the costs of administration of the settlor's estate pursuant to section 633.3104, following the payment of the proper costs of administration of the trust and any claims against the trust, the debts and charges of the settlor's estate payable by the trust shall be classified pursuant to sections 633.425 and 633.426 as such sections exist on the date of the settlor's death.

Sec. 42. Section 633.4701, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. For the purposes of this section, a term of the trust requiring that a beneficiary survive a person whose death does not make the beneficiary entitled to possession or enjoyment of the beneficiary's interest in the trust shall not be considered as "otherwise specifically stated by the terms of the trust" nor as an "express condition of survivorship imposed by the terms of the trust".

Sec. 43. Section 633.4701, subsection 9, Code 2005, is amended to read as follows:

9. If an interest to which this section applies is given to a class, other than a class described as "issue", "descendants", "heirs of the body", "heirs", "next of kin", "relatives", ~~or~~ "family", or a class described by language of similar import, the members of the class who are living on the date on which the class becomes entitled to possession or enjoyment of the interest shall be considered as alternate beneficiaries under this section. However, neither the residuary beneficiaries under the settlor's will nor the settlor's heirs shall be considered as alternate beneficiaries for the purposes of this section.

Sec. 44. NEW SECTION. 633.4703 GENERAL ORDER FOR ABATEMENT.

Except as otherwise provided by the governing instrument, where necessary to abate shares of the beneficiaries of a trust for the payment of debts and charges, federal and state estate taxes, bequests, and the shares of children born or adopted after the execution of the trust, abatement shall occur in the following order:

1. Shares allocated to the residuary beneficiaries of the trust shall be abated first, on a pro rata basis.
2. Shares defined by a dollar amount, on a pro rata basis.
3. Shares described as specific items of property whether tangible or intangible shall be abated last, and such abatement shall be done as equitably by the trustee among the various beneficiaries as circumstances reasonably allow.
4. Notwithstanding subsections 1, 2, or 3, a disposition in favor of the grantor's surviving spouse shall not be abated where such abatement would have the effect of increasing the amount of federal estate or federal gift taxes payable by a person or an entity.

Sec. 45. NEW SECTION. 633.4704 SIMULTANEOUS DEATH.

If the determination of the successor of a beneficial interest in a trust is dependent upon whether a beneficiary has survived the death of a settlor, of another beneficiary, or of any other person, the uniform simultaneous death Act, sections 633.523 through 633.528, shall govern the determination of who shall be considered to have died first.

Sec. 46. NEW SECTION. 633.4705 PRINCIPAL AND INCOME.
Chapter 637 shall apply to trusts subject to this chapter.

Sec. 47. NEW SECTION. 633.4706 SMALL DISTRIBUTIONS TO MINORS — PAYMENT.

When a minor becomes entitled under the terms of the trust to a beneficial interest in the trust upon the distribution of the trust fund and the value of the interest does not exceed the sum of twenty-five thousand dollars, the trustee may pay the interest to a custodian under any uniform transfers to minors Act. Receipt by the custodian shall have the same force and effect as though payment had been made to a duly appointed and qualified conservator for the minor.

Sec. 48. NEW SECTION. 633.5105 CHARITABLE TRUSTS.

In addition to the provisions of this chapter, a charitable trust that is a private foundation shall be governed by the provisions of chapter 634.

Sec. 49. Section 633.6101, Code 2005, is amended to read as follows:

633.6101 SUBJECT MATTER JURISDICTION.

The district court sitting in probate has exclusive jurisdiction of proceedings concerning the internal affairs of a trust and of actions and proceedings to determine the existence of a trust, actions and proceedings by or against creditors or debtors of a trust, and other actions and proceedings involving a trust and third persons. Such jurisdiction may be invoked by any interested party at any time.

Sec. 50. Sections 633.28, 633.699A, 633.703A, 633.703B, 633.7101, 636.60, 636.60A, 636.61, Code 2005, are repealed.

Sec. 51. Sections 633.2; 633.3, unnumbered paragraph 1; 633.3, subsections 7 and 20; 633.22, subsection 4; 633.34; 633.38; 633.40, subsection 1; 633.44; 633.46; 633.47; 633.71; 633.88; 633.118; 633.160; 633.162; 633.350; 633.365; 633.389; 633.433; 633.500; 633.502; 633.597; 633.633; 633.633A; and 633.652, Code 2005, are amended by striking from the applicable section, paragraph, or subsection the word “Code” and inserting in lieu thereof the following: “probate code”.

Sec. 52. CODE EDITOR DIRECTIVE. Sections 633.707, unnumbered paragraph 1; 633.711, subsection 2; 633.800; 633.801, unnumbered paragraph 1; 633.803; 633.807, subsections 2 and 7; 633.808; 633.809; 633.810; 633.901; 633.902, unnumbered paragraph 1; 633.903; 633.904; 633.905, subsection 6; 633.913, subsections 5 and 6; 633.914; 633.915; 633.916; 633.917; 633.1101; 633.1102, unnumbered paragraph 1; and 633.1104; Code 2005, are amended by striking from the applicable section, paragraph, or subsection the word “division” and inserting in lieu thereof the following: “chapter”.

Sec. 53. CODE EDITOR DIRECTIVE. The Code editor is directed to transfer from chapter 633, division XVII (sections 633.705 and 633.706), division XVIII (633.707 through 633.711), division XIX (633.800 through 633.811), and division XX (633.901 through 633.917), as amended in this Act, to new chapters 633B, 633C, 633D, and 633E, respectively.

Sec. 54. CODE EDITOR DIRECTIVE. The Code editor is directed to transfer from chapter 633, sections 633.1101 through 633.1108, 633.2101 through 633.2107, 633.2201 through 633.2208, 633.2301 through 633.2303, 633.3101 through 633.3111, 633.4101 through 633.4111, 633.4201 through 633.4214, 633.4301 through 633.4309, 633.4401 and 633.4402, 633.4501 through 633.4507, 633.4601 through 633.4605, 633.4701 and 633.4702, 633.5101 through 633.5104, 633.6101 through 633.6105, 633.6201 and 633.6202, and 633.6301 through 633.6308, as amended in this Act, to new chapter 633A and to retain the same section number designations.

Sec. 55. CODE EDITOR DIRECTIVE. The Code editor is directed to correct internal references in the Code as necessary due to the enactment of this Act.

Approved April 19, 2005

CHAPTER 39

WEED CONTROL

H.F. 252

AN ACT relating to the control of noxious weeds on land by providing alternative notice procedures to landowners and other responsible persons.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 317.6, Code 2005, is amended to read as follows:

317.6 ENTERING LAND TO DESTROY WEEDS — NOTICE.

~~In case of~~ If there is a substantial failure by the owner or person in possession or control of any land to comply with any order of destruction pursuant to the provisions of this chapter, the county weed commissioner, including the weed commissioner's deputies and, or employees acting under the weed commissioner's direction ~~shall have full power and authority to may~~ enter upon any land within ~~their~~ the commissioner's county for the purpose of destroying noxious weeds. ~~Such~~ The entry may be made without the consent of the landowner or person in possession or control of the land ~~but~~. ~~However, the~~ actual work of destruction shall not be commenced until five days after the ~~service of a notice in writing on the landowner and on the person in possession or in control of the land have been notified.~~ The notice shall state the facts ~~as relating~~ to failure of compliance with the county program of weed destruction order or orders made by the board of supervisors and ~~shall be served in the same manner as an original notice except as hereinafter provided.~~ The notice ~~may shall~~ be served delivered by personal service on the owner and persons in possession and control of the land. The personal service may be served by the weed commissioner, ~~the weed commissioner's deputies or any person designated in writing by the weed commissioner and~~. However, in lieu of personal service, the weed commissioner may provide that the notice be delivered by certified mail. A copy of the notice shall be filed in the office of the county auditor. Provided, however, that service on persons living temporarily or permanently outside of the county may be made by sending the written notice of noncompliance by certified mail to said person at the ~~The~~ last known address ~~to of the owner or person in possession or control of the land may~~ be ascertained, if necessary, from the last tax list in the county treasurer's office. Where any person, firm or corporation owning land within the county has filed a written instrument in the office of the county auditor designating the name and address of its agent, the notice herein provided may be served ~~on delivered to~~ that agent. In computing time hereunder for notice, it shall be from the date of service as evidenced on the return ~~or if of service.~~ If delivery is made by certified mail, it shall be from the date of mailing as evidenced by the certified mail book at the post office where mailed.

Sec. 2. Section 317.16, Code 2005, is amended to read as follows:

317.16 FAILURE TO COMPLY.

1. In case of a substantial failure to comply by the date prescribed in any order of destruction

of weeds made pursuant to this chapter, the weed commissioner ~~or the deputies may, subsequent to the time after service of the notice provided for in section 317.6 enter~~ do any of the following:

a. Enter upon the land and as cause provided in section 317.6 and provide for the destruction of the weeds to be destroyed, or may impose as provided in section 317.6.

b. Impose a maximum penalty of a ten dollar fine for each day, up to ten days, that the owner or person in possession or control of the land fails to comply. If a penalty is imposed and the owner or person in possession or control of the land fails to comply, the weed commissioner shall cause the weeds to be destroyed.

2. If the weed commissioner enters the land and causes the weeds to be destroyed, the actual cost and expense of cutting, burning or otherwise destroying the weeds, along with the cost of serving providing notice and special meetings or proceedings, if any, shall be paid by the county and, together with the additional assessment to apply toward costs of supervision and administration, be recovered by an assessment against the tract of real estate on which the weeds were growing, as provided in section 317.21. Any fine imposed under this section shall be recovered by a similar assessment.

Approved April 19, 2005

CHAPTER 40

REAL ESTATE BROKERAGE AGREEMENTS

H.F. 375

AN ACT relating to the duties imposed on a real estate broker by a brokerage agreement.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 543B.5, subsection 7, Code 2005, is amended to read as follows:

7. "Brokerage agreement" means a contract between a broker and a client which establishes the relationship between the parties as to the brokerage services to be performed and contains the provisions required in section 543B.56A.

Sec. 2. **NEW SECTION.** 543B.56A BROKERAGE AGREEMENTS — CONTENTS.

A brokerage agreement shall specify that the broker shall, at a minimum, do all of the following:

1. Accept delivery of and present to the client offers and counteroffers to buy, sell, rent, lease, or exchange the client's property or the property the client seeks to purchase or lease.

2. Assist the client in developing, communicating, negotiating, and presenting offers or counteroffers until a rental agreement, lease, exchange agreement, offer to buy or sell, or purchase agreement is signed and all contingencies are satisfied or waived and the transaction is completed.

3. Answer the client's questions relating to the brokerage agreements, listing agreements, offers, counteroffers, notices, and contingencies.

4. Provide prospective buyers access to listed properties.

Approved April 19, 2005

CHAPTER 41**REAL ESTATE COMMISSION MEMBERSHIP***H.F. 469*

AN ACT increasing the membership of the real estate commission.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 543B.8, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A real estate commission is created within the professional licensing and regulation division of the department of commerce. The commission consists of ~~three~~ five members licensed under this chapter and two members not licensed under this chapter and who shall represent the general public. At least one of the licensed members shall be a licensed real estate salesperson, except that if the licensed real estate salesperson becomes a licensed real estate broker during a term of office, that person may complete the term, but is not eligible for reappointment on the commission as a licensed real estate salesperson. A licensed member shall be actively engaged in the real estate business and shall have been so engaged for five years preceding the appointment, the last two of which shall have been in Iowa. Professional associations or societies of real estate brokers or real estate salespersons may recommend the names of potential commission members to the governor. However, the governor is not bound by their recommendations. A commission member shall not be required to be a member of any professional association or society composed of real estate brokers or salespersons. Commission members shall be appointed by the governor subject to confirmation by the senate. Appointments shall be for three-year terms and shall commence and end as provided in section 69.19. A member shall serve no more than three terms or nine years, whichever is less. No more than one member shall be appointed from a county. A commission member shall not hold any other elective or appointive state or federal office. Vacancies shall be filled for the unexpired term by appointment of the governor and are subject to senate confirmation. A majority of the commission members constitutes a quorum. The administrator of the professional licensing and regulation division shall hire and provide staff to assist the commission with implementing this chapter.

Approved April 19, 2005

CHAPTER 42**IOWA COMMISSION ON VOLUNTEER SERVICE***H.F. 478*

AN ACT relating to the Iowa commission on volunteer service.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 15H.1 FINDINGS.

The general assembly finds:

1. There is a compelling need for more civic participation to solve community and state problems, and to address many of the country's unmet social, environmental, educational, and public safety needs.

2. Promoting the capability of Iowa's people, communities, and enterprises to work collaboratively is vital to the long-term prosperity of this state.

3. Building and encouraging community services and volunteerism is an integral part of the state's future well-being, and requires cooperative efforts by the public and private sectors.

4. The development of a volunteer service program in Iowa requires an administrative vehicle which conforms with federal guidelines detailed in the federal National and Community Service Trust Act of 1993.

Sec. 2. NEW SECTION. 15H.2 IOWA COMMISSION ON VOLUNTEER SERVICE ESTABLISHED.

1. The governor shall establish the Iowa commission on volunteer service which shall be part of the governor's office. The governor shall appoint the commission's members.

2. The mission of the commission is to advise and assist in the development and implementation of a comprehensive, statewide plan for promoting volunteer involvement and citizen participation in Iowa, as well as to serve as the state's liaison to national and state organizations which support the commission's mission.

3. The commission shall do all of the following:

a. Prepare a three-year national service plan as called for under the federal National and Community Service Trust Act of 1993.

b. Fulfill federal program administration requirements, including provision of health care and child care for program participants.

c. Submit annual state applications for federal funding of commission-selected AmeriCorps programs.

d. Integrate AmeriCorps programs, the corporation for national and community service program, and the older American volunteer program into the state strategic service plan.

e. Conduct local outreach to develop a comprehensive and inclusive state service plan and coordinate with existing programs in order to prevent unnecessary competition for private sources of funding.

f. Provide technical assistance to service programs, including the development of training methods and curriculum materials.

g. Develop a statewide recruitment and placement system for individuals interested in community service opportunities.

h. Prepare quarterly reports on progress for submission to the governor and the general assembly.

i. Administer the retired and senior volunteer program.

Sec. 3. NEW SECTION. 15H.3 VOLUNTEER SERVICE COMMISSION MEMBERSHIP.

1. The Iowa commission on volunteer service shall consist of the following members:

a. An individual with expertise in the educational training and developmental needs of youth.

b. An individual with experience in promoting the involvement of older adults in service and volunteerism.

c. A representative of community-based agencies within the state.

d. The director of the department of education, or the director's designee.

e. The executive secretary of the state board of regents, or the executive secretary's designee.

f. A representative of local government.

g. A representative of a local labor organization.

h. A representative of a for-profit business.

i. An individual between the ages of sixteen and twenty-five who is or has been a participant or supervisor in a volunteer or service program.

j. A representative of the corporation for national and community service who shall serve as a nonvoting, ex officio member.

2. No more than twenty-five percent of the commission members shall be employees of the

state, though additional state agency representatives may sit on the commission as nonvoting, ex officio members.

3. A commission member shall not vote on issues affecting organizations for which the member has served as a staff person or as a volunteer at any time during the preceding twelve-month period.

4. The membership of the commission shall comply with sections 69.16 and 69.16A. The membership of the commission shall also reflect the diversity of the state's population.

5. Members shall serve staggered terms of three years beginning and ending as provided by section 69.19.¹ Members of the commission shall serve no more than two three-year terms. Any vacancy shall be filled in the same manner as the original appointment.

6. The chairperson of the commission shall be selected by the governor and serve at the governor's discretion.

Sec. 4. NEW SECTION. 15H.4 ADMINISTRATION — FUNDING.

1. The governor's office shall serve as the lead agency for administration of the commission. The department of education, the state board of regents, the department of workforce development, and the department of economic development shall provide additional administrative support as necessary to fulfill the duties of the commission. All other state agencies shall provide assistance to the commission to ensure a fully coordinated state effort for promoting national and community service.

2. The commission may accept funds and in-kind services from other state, federal, and private entities.

Sec. 5. Section 231.23A, subsection 3, Code 2005, is amended by striking the subsection.

Sec. 6. Section 231.55, Code 2005, is repealed.

Approved April 19, 2005

CHAPTER 43

IOWA EGG COUNCIL — MISCELLANEOUS CHANGES

H.F. 580

AN ACT relating to the administration of the Iowa egg council, including by providing for the use, promotion, and research of eggs and egg products, and providing for an assessment.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 184.1, subsection 4, Code 2005, is amended to read as follows:

4. "Eggs" means eggs produced from a layer-type chicken. "Eggs" includes shell eggs or eggs broken for further processing, ~~but does.~~ However, "eggs" does not include fertile ~~any of the following:~~

a. Fertile eggs that are incubated, hatched, or used for vaccines.

b. Organic eggs which are produced as part of a production operation which is certified by the department pursuant to chapter 190C.

Sec. 2. Section 184.3, Code 2005, is amended to read as follows:

184.3 ASSESSMENT.

1. a. The council shall establish ~~Except as provided in paragraph "b",~~ an assessment

¹ See chapter 175, §54 herein

amount for of two and one-half cents is imposed on each thirty dozen eggs produced in this state. The assessment shall be imposed on a producer at the time of delivery to a purchaser who shall deduct the assessment from the price paid to a producer at the time of sale. The assessment shall not be refundable. The assessment is due to be paid to the council within thirty days following each calendar quarter, as provided by the council.

b. Upon request of the council, the secretary shall call a special referendum for producers to vote on whether to authorize an increase in the assessment to an amount that is more than two and one-half cents imposed on each thirty dozen eggs produced in this state. Notice shall be given and the special referendum shall be conducted in the manner provided in section 184.5. If a majority of the producers voting approves the increase, the council may increase the assessment for the amount approved. However, the assessment shall not exceed fifteen cents imposed on each thirty dozen eggs produced in this state.

2. If the producer sells eggs to a purchaser outside the state of Iowa, the producer shall deduct the tax assessment from the amount received from the sale and shall forward the amount deducted to the council within thirty days following each calendar quarter. If the producer and processor are the same person, then that person shall pay the assessment to the council within thirty days following each calendar quarter.

3. The council may charge interest on any amount of the assessment that is delinquent. The rate of interest shall not be more than the current rate published in the Iowa administrative bulletin by the department of revenue pursuant to section 421.7. The interest amount shall be computed from the date the assessment is delinquent, unless the council designates a later date. The interest amount shall accrue for each month in which there is delinquency calculated as provided in section 421.7, and counting each fraction of a month as an entire month. The interest amount due shall become a part of the assessment due.

Sec. 3. Section 184.9, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

184.9 DUTIES OF THE COUNCIL — MARKETING.

The council shall develop new and expand existing markets for eggs and egg products, and may provide for any of the following:

1. Increasing the utilization of eggs or egg products.
2. Increasing the awareness of the health benefits associated with the consumption of eggs or egg products.
3. Increasing the awareness of the economic benefits associated with the production and processing of eggs or egg products.

Sec. 4. NEW SECTION. 184.9A DUTIES OF THE COUNCIL — RESEARCH.

The council shall participate in research programs or projects, including by conducting or financing such programs or projects, relating to any of the following:

1. Increasing the utilization of eggs or egg products.
2. Improving the production or processing of eggs or egg products.
3. Preventing, modifying, or eliminating barriers to trade which obstruct the free flow of eggs or egg products in commerce.

Sec. 5. NEW SECTION. 184.9B DUTIES OF THE COUNCIL — EDUCATION.

The council shall participate in education programs or projects, including by conducting or financing such programs or projects, as follows:

1. The council's education programs or projects may provide for any of the following:
 - a. The utilization of eggs or egg products.
 - b. The production or processing of eggs or egg products.
 - c. The safe consumption of eggs or egg products.
 - d. The prevention, modification, or elimination of barriers to trade which obstruct the free flow of eggs or egg products in commerce.

e. Increasing the awareness of the health benefits associated with the consumption of eggs or egg products.

f. Increasing the awareness of the economic benefits associated with the production and processing of eggs or egg products.

2. The council's education programs or projects may be designed to increase consumers' knowledge of the production or processing of eggs, the preparation of eggs or egg products, or the consumption of eggs or egg products.

3. As part of the council's education programs or projects it may provide for the dissemination of information of public interest, including but not limited to the development or publication of materials in a printed or electronic format.

Sec. 6. Section 184.10, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The council may perform any function related that it deems necessary to the production and marketing of eggs or egg products carry out its purposes and duties as provided in this chapter, including but not limited to doing any of the following:

Sec. 7. Section 184.10, subsection 6, Code 2005, is amended to read as follows:

6. Become a dues-paying member of an organization carrying out a purpose related to the increased any of the following:

a. The production or processing of eggs or egg products.

b. The consumption and or utilization of eggs or egg products.

Sec. 8. Section 184.10, subsection 7, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

7. Administer elections for members of the council and provide for the appointment of persons to fill vacancies occurring on the council, as provided in section 184.8. The department may assist the council in administering an election, upon request to the secretary by the council.

Sec. 9. Section 184.14, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Moneys collected, deposited in the fund, and transferred to the council as provided in this chapter are subject to audit by the auditor of state. The moneys transferred to the council shall be used by the council first for the payment of collection expenses, second for payment of the costs and expenses arising in connection with conducting referendums, and third to perform the functions and carry out the duties of the council as provided in section 184.9 this chapter. Moneys remaining after the council is abolished and the imposition of an assessment is terminated pursuant to a referendum conducted pursuant to section 184.5 shall continue to be expended in accordance with this chapter until exhausted.

Approved April 19, 2005

CHAPTER 44**CONSUMER CREDIT CODE — DEBT COLLECTION PRACTICES
— FINANCIAL INSTITUTION AFFILIATES***S.F. 260*

AN ACT relating to debt collection disclosure requirements for certain financial institution affiliates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 537.1301, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. “Affiliate” as used in reference to a state bank means the same as defined in section 524.1101. “Affiliate” as used in reference to a national banking association means the same as defined in section 524.1101, except that the term “national banking association” shall be substituted for the term “state bank”. “Affiliate” as used in reference to a savings and loan association shall mean the same as defined in 12 C.F.R. § 561.4.

NEW SUBSECTION. 17A. “Credit union service organization” means an organization, corporation, or association whose membership or ownership is primarily confined or restricted to credit unions or organizations of credit unions and whose purpose is primarily designed to provide services to credit unions, organizations of credit unions, or credit union members.

Sec. 2. Section 537.7103, subsection 4, paragraph b, subparagraph (2), Code 2005, is amended to read as follows:

(2) Communications issued directly by a state bank as defined in section 524.103 or its affiliate, a state bank chartered under the laws of any other state or its affiliate, a national banking association or its affiliate, a trust company, a federally chartered savings and loan association or savings bank or its affiliate, an out-of-state chartered savings and loan association or savings bank or its affiliate, a financial institution chartered by the federal home loan bank board, an association incorporated or authorized to do business under chapter 534, a state or federally chartered credit union, a credit union service organization, or a company or association organized or authorized to do business under chapter 515, 518, 518A, or 520, or an officer, employee, or agent of such company or association, provided the communication does not deceptively conceal its origin or its purpose.

Approved April 22, 2005

CHAPTER 45**ELDER SERVICES, CARE FACILITIES, AND PROGRAMS***S.F. 304*

AN ACT relating to the provisions of the elder Iowans Act.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 135C.37, Code 2005, is amended to read as follows:

135C.37 COMPLAINTS ALLEGING VIOLATIONS — CONFIDENTIALITY.

A person may request an inspection of a health care facility by filing with the department,

resident advocate committee of the facility, or the long-term care resident's advocate as ~~defined in established pursuant to section 231.4, subsection 16~~ 231.42, a complaint of an alleged violation of applicable requirements of this chapter or the rules adopted pursuant to this chapter. A person alleging abuse or neglect of a resident with a developmental disability or with mental illness may also file a complaint with the protection and advocacy agency designated pursuant to section 135B.9 or section 135C.2. A copy of a complaint filed with the resident advocate committee or the long-term care resident's advocate shall be forwarded to the department. The complaint shall state in a reasonably specific manner the basis of the complaint, and a statement of the nature of the complaint shall be delivered to the facility involved at the time of the inspection. The name of the person who files a complaint with the department, resident advocate committee, or the long-term care resident's advocate shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees involved in the investigation of the complaint.

Sec. 2. Section 231.3, subsection 4, Code 2005, is amended to read as follows:

4. Full restorative services for those who require institutional care, and a comprehensive array of home and community-based, long-term care services adequate to sustain older people in their communities and, whenever possible, in their homes, including support for caregivers.

Sec. 3. Section 231.4, Code 2005, is amended to read as follows:

231.4 DEFINITIONS.

For purposes of this chapter, unless the context otherwise requires:

1. "Administrative action" means an action or decision made by an owner, employee, or agent of a long-term care facility, or by a governmental agency, which affects the service provided to residents covered in this chapter.

2. "Commission" means the commission of elder affairs.

3. "Department" means the department of elder affairs.

4. "Director" means the director of the department of elder affairs.

5. "Elder" means an individual who is sixty years of age or older. ~~"Elderly" means individuals sixty years of age or older.~~

6. "Equivalent support" means in-kind contributions of services, goods, volunteer support time, administrative support, or other support reasonably determined by the department as equivalent to a dollar amount.

7. "Federal Act" means the Older Americans Act of 1965, 42 U.S.C. § 3001 et seq., as amended.

8. "Home and community-based services" means a continua of services available in an individual's home or community which include but are not limited to case management, home-maker, home health aide, personal care, adult day, respite, home delivered meals, nutrition counseling, and other medical and social services which contribute to the health and well-being of individuals and their ability to reside in a home or community-based care setting.

~~8.~~ 9. "Long-term care facility" means a long-term care unit of a hospital or a facility licensed under section 135C.1 whether the facility is public or private.

9. ~~10.~~ "Resident's advocate program" means the state long-term care resident's advocate program operated by the department of elder affairs and administered by the long-term care resident's advocate.

~~10.~~ 11. "Unit of general purpose local government" means a political subdivision of the state whose authority is general and not limited to one function or combination of related functions.

For the purposes of this chapter, "focal point", "greatest economic need", and "greatest social need" mean as those terms are defined in the federal Act.

Sec. 4. Section 231.14, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The commission shall adopt administrative rules pursuant to chapter 17A to ~~implement~~

administer the duties specified in this chapter and in all other chapters under the department's jurisdiction.

Sec. 5. Section 231.14, subsection 7, Code 2005, is amended to read as follows:

7. Adopt a formula for the distribution of federal Act, state ~~elderly~~ elder services, and senior living program funds taking into account, to the maximum extent feasible, the best available data on the geographic distribution of elders in the state, and publish the formula for review and comment.

Sec. 6. Section 231.23, subsection 3, Code 2005, is amended to read as follows:

3. Pursuant to commission policy, coordinate state activities related to the purposes of this chapter and all other chapters under the department's jurisdiction.

Sec. 7. Section 231.23A, subsection 1, Code 2005, is amended to read as follows:

1. ~~Elderly~~ Elder services including but not limited to home and community-based services such as adult day services, assessment and intervention, transportation, chore services, counseling, homemaker services, material aid, personal care, reassurance, respite services, visitation, caregiver support, emergency response system services, mental health outreach, and home repair, meals, and nutrition counseling.

Sec. 8. Section 231.33, subsections 4, 8, and 11, Code 2005, are amended to read as follows:

4. Provide technical assistance as needed, ~~prepare written monitoring reports at least document~~ quarterly monitoring, and provide a written report of an annual on-site assessment of all service providers funded by the area agency.

8. Assure that elders in the planning and service area have reasonably convenient access to information and referral assistance services.

11. Contact outreach efforts, with special emphasis on the rural ~~elderly~~ elders, to identify elders with greatest economic or social needs and inform them of the availability of services under the area plan.

Sec. 9. Section 231.33, subsection 17, Code 2005, is amended by striking the subsection.

Sec. 10. Section 231.42, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The Iowa commission of elder affairs, in accordance with section ~~3027(a)(12)~~ 712 of the federal Act, as codified at 42 U.S.C. § 3058g, shall establish the office of long-term care resident's advocate within the department. The long-term care resident's advocate shall:

Sec. 11. Section 231.43, subsection 3, Code 2005, is amended to read as follows:

3. Procedures to enable the long-term care resident's advocate to elicit, receive, and process complaints regarding administrative actions which may adversely affect the health, safety, welfare, or rights of ~~elderly~~ elders in long-term care facilities.

Sec. 12. Section 231.44, subsections 2 and 4, Code 2005, are amended to read as follows:

2. The responsibilities of the resident advocate committee are in accordance with the rules adopted by the commission pursuant to chapter 17A. When adopting the rules, the commission shall consider the needs of residents of elder group homes as defined in section 231B.1 and each category of licensed health care facility as defined in section 135C.1, subsection 6, and the services each facility may render. ~~The commission shall coordinate the development of rules with the mental health, mental retardation, developmental disabilities, and brain injury commission created in section 225C.5 to the extent the rules would apply to a facility primarily serving persons with mental illness, mental retardation or other developmental disability, or brain injury.~~ The commission shall coordinate the development of appropriate rules with other state agencies.

4. The state, any resident advocate committee member, and any resident advocate coordinator, ~~and any sponsoring area agency on aging~~ are not liable for an action undertaken by a resident advocate committee member or a resident advocate committee coordinator in the performance of duty, if the action is undertaken and carried out reasonably and in good faith.

Sec. 13. Section 231.51, Code 2005, is amended to read as follows:

231.51 OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM, ~~TITLE V OF THE OLDER AMERICANS ACT.~~

1. The department shall direct and administer the older American community service employment program as authorized by the federal Act in coordination with the department of workforce development and the department of economic development.

2. The purpose of the program is to foster individual economic self-sufficiency and to increase the number of participants placed in unsubsidized employment in the public and private sectors while maintaining the community service focus of the program.

3. Funds appropriated to the department from the United States department of labor shall be distributed to local projects in accordance with federal requirements.

4. The department shall require such uniform reporting and financial accounting by area agencies on aging and local projects as may be necessary to fulfill the purposes of this section.

Sec. 14. Section 231.56, Code 2005, is amended to read as follows:

231.56 ELDERLY ELDER SERVICES PROGRAM.

The department shall ~~establish~~ administer an ~~elderly elder~~ services program to reduce institutionalization and encourage community involvement to help ~~the elderly elders~~ remain in their own homes. Funds appropriated for this purpose shall be instituted based on administrative rules adopted by the commission. The department shall require such records as needed to ~~implement~~ administer this section.

Sec. 15. Section 231.58, subsection 4, paragraphs b, d, f, and i, Code 2005, are amended to read as follows:

b. Develop common intake and release procedures for the purpose of determining eligibility at one point of intake and determining eligibility for programs administered by the departments of human services, public health, and elder affairs, such as the medical assistance program, federal food stamp program, ~~and homemaker-home health aide programs, and the case management program for frail elders administered by the department of elder affairs.~~

d. Develop procedures for coordination at the local and state level among the providers of long-term care, ~~including when possible co-campusing of services. The director of the department of administrative services shall give particular attention to this section when arranging for office space pursuant to section 8A.321 for these three departments.~~

f. Propose rules and procedures for the development of a comprehensive long-term care ~~and community-based services program system.~~

i. Consult with the state universities and other institutions with expertise in the area of ~~senior elder~~ issues and the long-term care continua.

Approved April 22, 2005

CHAPTER 46**UNEMPLOYMENT COMPENSATION —
DEPENDENT ADULT ABUSE INFORMATION***S.F. 335*

AN ACT relating to access to dependent adult abuse information and unemployment compensation claims.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 235B.6, subsection 2, paragraph d, Code 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) A court or administrative agency making a determination regarding an unemployment compensation claim pursuant to section 96.6.

Approved April 22, 2005

CHAPTER 47**SWIMMING POOLS AND SPAS —
HOT WATER HEATING BOILER REGULATION***H.F. 613*

AN ACT relating to the regulation of hot water heating boilers for swimming pools and spas.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 89.4, subsection 1, paragraph h, Code 2005, is amended to read as follows:

h. Hot water heating boilers used for heating pools or spas ~~where burner input is no greater than eighteen thousand seven hundred seventy-two British thermal units per hour regulated by the department of public health pursuant to chapter 135I.~~

Approved April 22, 2005

CHAPTER 48

REGULATION OF EXCURSION GAMBLING BOATS — FEES

H.F. 641

AN ACT concerning the determination of state regulatory fees on excursion gambling boats relating to the number of gaming enforcement officers on larger excursion gambling boats.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 99F.10, subsection 4, Code 2005, is amended to read as follows:

4. In determining the license fees and state regulatory fees to be charged as provided under section 99F.4 and this section, the commission shall use as the basis for determining the amount of revenue to be raised from the license fees and regulatory fees the amount appropriated to the commission plus the cost of salaries for no more than two special agents for each excursion gambling boat and no more than four gaming enforcement officers for each excursion gambling boat with a patron capacity of less than two thousand persons or no more than five gaming enforcement officers for each excursion gambling boat with a patron capacity of at least two thousand persons, plus any direct and indirect support costs for the agents and officers, for the division of criminal investigation's excursion gambling boat activities, as the basis for determining the amount of revenue to be raised from the license fees and regulatory fees.

Approved April 22, 2005

CHAPTER 49

OPERATING WHILE INTOXICATED — CHEMICAL TESTING OF PERSONS INCAPABLE OF CONSENT OR REFUSAL — CERTIFICATION

H.F. 726

AN ACT allowing a physician assistant and an advanced registered nurse practitioner to certify an alleged intoxicated driver's incapacitated state for purposes of chemical testing.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321J.7, Code 2005, is amended to read as follows:

321J.7 DEAD OR UNCONSCIOUS PERSONS.

A person who is dead, unconscious, or otherwise in a condition rendering the person incapable of consent or refusal is deemed not to have withdrawn the consent provided by section 321J.6, and the test may be given if a licensed physician, physician assistant, or advanced registered nurse practitioner certifies in advance of the test that the person is ~~dead~~, unconscious, or otherwise in a condition rendering that person incapable of consent or refusal. If the certification is oral, a written certification shall be completed by the physician, physician assistant, or advanced registered nurse practitioner within a reasonable time of the test.

Approved April 22, 2005

CHAPTER 50

DEPENDENT ADULTS AND DEPENDENT ADULT ABUSE — PROTECTIVE SERVICES

H.F. 760

AN ACT relating to dependent adults and the provision of protective services.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 235B.18, subsections 1 and 4, Code 2005, are amended to read as follows:

1. If the department reasonably determines that a dependent adult is a victim of dependent adult abuse and lacks capacity to consent to the receipt of protective services, the department may petition the district court in the county in which the dependent adult resides for an order authorizing the provision of protective services. The petition shall allege specific facts sufficient to demonstrate that the dependent adult is in need of protective services and lacks capacity to consent to the receipt of services.

4. A determination by the court that a dependent adult lacks the capacity to consent to the receipt of protective services under this chapter shall not affect incompetency proceedings under sections 633.552 through 633.556 or any other proceedings, and incompetency proceedings under sections 633.552 through 633.556 shall not have a conclusive effect on the question of capacity to consent to the receipt of protective services under this chapter. A person previously adjudicated as incompetent under the relevant provisions of chapter 633 is entitled to the care, protection, and services under this chapter.

Sec. 2. Section 235B.19, subsection 1, Code 2005, is amended to read as follows:

1. If the department determines that a dependent adult is suffering from dependent adult abuse which presents an immediate danger to the health or safety of the dependent adult, or which results in irreparable harm to the physical or financial resources or property of the dependent adult, and that the dependent adult lacks capacity to consent to receive protective services, and that no consent can be obtained, the department may petition the court with probate jurisdiction in the county in which the dependent adult resides for an emergency order authorizing protective services.

Sec. 3. Section 235B.19, subsection 3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Upon finding that there is probable cause to believe that the dependent adult abuse presents an immediate threat to the health or safety of the dependent adult or which results in irreparable harm to the physical or financial resources or property of the dependent adult, and that the dependent adult lacks capacity to consent to the receipt of services, the court may do any of the following:

Sec. 4. Section 235B.19, subsection 5, Code 2005, is amended to read as follows:

5. If the department cannot obtain an emergency order under this section due to inaccessibility of the court, the department may contact law enforcement to remove the dependent adult to safer surroundings, authorize the provision of medical treatment, and order the provision of or provide other available services necessary to remove conditions creating the immediate danger to the health or safety of the dependent adult or which are producing irreparable harm to the physical or financial resources or property of the dependent adult. The department shall obtain an emergency order under this section not later than four p.m. on the first succeeding business day after the date on which protective or other services are provided. If the department does not obtain an emergency order within the prescribed time period, the department shall cease providing protective services and, if necessary, make arrangements for the imme-

diate return of the person to the place from which the person was removed, to the person's place of residence in the state, or to another suitable place. A person, agency, or institution acting in good faith in removing a dependent adult or in providing services under this subsection, and an employer of or person under the direction of such a person, agency, or institution, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as the result of the removal or provision of services.

Sec. 5. Section 235B.19, subsection 6, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The Upon a finding of probable cause to believe that dependent adult abuse has occurred and is either ongoing or is likely to reoccur, the court may also enter orders as may be appropriate to third persons enjoining them from specific conduct. The orders may include temporary restraining orders which impose criminal sanctions if violated. The court may enjoin third persons from any of the following:

Approved April 22, 2005

CHAPTER 51

COMMUNITY PUBLIC WATER SUPPLY PERMITS — NOTICE OF ISSUANCE OR MODIFICATION

H.F. 768

AN ACT relating to the publishing of notice of recommendations to grant permits for diversion, storage, and withdrawal of water.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 455B.265, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Prior to the issuance of a new permit or modification of a permit under this section to a community public water supply, the department shall publish a notice of recommendation to grant a permit. The notice shall include a brief summary of the proposed permit and shall be published in a newspaper of general circulation within the county of the proposed water source as provided in section 618.3. If the newspaper of general circulation is not the newspaper of the nearest locality to the proposed water source that publishes a newspaper, the notice shall also be published in the newspaper of the nearest locality to the proposed water source that publishes a newspaper and the department may charge the applicant for the expenses associated with publishing the notice in the second newspaper.

Approved April 22, 2005

CHAPTER 52**ADMINISTRATION OF GOVERNMENTAL FINANCIAL
AND INFORMATION TECHNOLOGY ACTIVITIES***H.F. 776*

AN ACT relating to governmental financial and information technology activities, including membership in state insurance plans by former members of the general assembly, designation of a chief information officer for the state, cooperative procurement agreements, distribution of state employee salary information, setoff authority for capitol complex and state laboratory parking fines collection, sales of disposed personal property of the state by not-for-profit organizations, a local government setoff authority pilot project, and providing for a study concerning credit card payments accepted by government.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I

Section 1. Section 2.40, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

A member of the general assembly may elect to become a member of a state group insurance plan. A member of the general assembly may continue membership in a state group insurance plan without reapplication during the member's tenure as a member of consecutive general assemblies. For the purpose of electing to become a member of the state health or medical service group insurance plan, a member of the general assembly has the status of a "new hire", full-time state employee following each election of that member in a general or special election, or during the first subsequent annual open enrollment. In lieu of membership in a state health or medical group insurance plan, a member of the general assembly may elect to receive reimbursement for the costs paid by the member for a continuation of a group coverage (COBRA) health or medical insurance plan. The member shall apply for reimbursement by submitting evidence of payment for a COBRA health or medical insurance plan. The maximum reimbursement shall be no greater than the state's contribution for health or medical insurance family plan II. A member of the general assembly who elects to become a member of a state health or medical group insurance plan shall be exempted from preexisting medical condition waiting periods. A member of the general assembly may change programs or coverage under the state health or medical service group insurance plan during the month of January of odd-numbered years, but program and coverage change selections shall be subject to the enrollment rules established for full-time state employees excluded from collective bargaining as provided in chapter 20. A person who has been a member of the general assembly for two years and who has elected to be a member of a state health or medical group insurance plan may continue to be a member of such state health or medical group insurance plan by requesting continuation in writing to the finance officer within thirty-one days after leaving office. The continuing former member of the general assembly shall pay the total premium for the state plan and shall have the same rights to change programs or coverage as state employees. In the event of the death of a former member of the general assembly who has elected to continue to be a member of a state health or medical group insurance plan, the surviving spouse of the former member whose insurance would otherwise terminate because of the death of the former member may elect to continue to be a member of such state health or medical group insurance plan by requesting continuation in writing to the finance officer within thirty-one days after the death of the former member. The surviving spouse of the former member shall pay the total premium for the state plan and shall have the same rights to change programs or coverage as state employees. For purposes of this paragraph, health or medical programs or coverage and dental programs or coverage are to be treated separately and the rights to change programs or coverage apply only to the type of programs or coverage that the

continuing former member has elected to continue. This paragraph shall not be construed to permit a former member to become a member of a state health or medical group insurance plan providing programs or coverage of a type that the former member did not elect to continue pursuant to this paragraph.

Sec. 2. Section 8A.104, subsection 12, Code 2005, is amended to read as follows:

12. Serve as the chief information officer for the state. However, the director may designate a person in the department to serve in this capacity at the discretion of the director. If the director designates a person to serve as chief information officer, the person designated shall be professionally qualified by education and have no less than five years' experience in the fields of information technology and financial management.

Sec. 3. Section 8A.311, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. The director may enter into a cooperative procurement agreement with another governmental entity relating to the procurement of goods or services, whether the goods or services are for the use of the department or other governmental entities. The cooperative procurement agreement shall clearly specify the purpose of the agreement and the method by which that purpose will be accomplished. Any power exercised under the agreement shall not exceed the power granted to any party to the agreement.

Sec. 4. Section 8A.323, subsection 4, Code 2005, is amended to read as follows:

4. All Except as provided in subsection 5, all fines collected by the department shall be forwarded to the treasurer of state and deposited in the general fund of the state.

Sec. 5. Section 8A.323, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Any fine that remains unpaid upon becoming delinquent may be collected by the department pursuant to the setoff procedures provided for in section 8A.504. For purposes of this subsection, a fine becomes delinquent if it has not been paid within thirty days of the date of the issuance of the parking citation, unless a written request for a hearing is filed as provided pursuant to the rules of the department. If an appeal is filed and the citation is upheld, the fine becomes delinquent ten days after the issuance of the final decision on the appeal or thirty-one days after the date of the issuance of the parking citation, whichever is later.

Sec. 6. Section 8A.324, subsection 2, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A not-for-profit organization or governmental agency that enters into an agreement with the director pursuant to this subsection may sell or otherwise transfer the personal property received from the department to any person that the department would be able to sell or otherwise transfer such property to under this chapter, including, but not limited to, the general public. The authority granted to sell or otherwise transfer personal property pursuant to this paragraph supersedes any other restrictions applicable to the not-for-profit organization or governmental entity, but only for purposes of the personal property received from the department.

Sec. 7. Section 8A.341, subsection 2, Code 2005, is amended to read as follows:

2. If money is appropriated for this purpose, by November 1 of each year supply a report which contains the name, gender, county, or city of residence when possible, official title, salary received during the previous fiscal year, base salary as computed on July 1 of the current fiscal year, and traveling and subsistence expense of the personnel of each of the departments, boards, and commissions of the state government except personnel who receive an annual salary of less than one thousand dollars. The number of the personnel and the total amount received by them shall be shown for each department in the report. All employees who have drawn salaries, fees, or expense allowances from more than one department or subdivision

shall be listed separately under the proper departmental heading. On the request of the director, the head of each department, board, or commission shall furnish the data covering that agency. The report shall be distributed upon request without charge in an electronic medium to each caucus of the general assembly, the legislative services agency, the chief clerk of the house of representatives, and the secretary of the senate. Copies of the report shall be made available to other persons in ~~both print or~~ an electronic medium upon payment of a fee, which shall not exceed the cost of providing the copy of the report. Sections 22.2 through 22.6 apply to the report. All funds from the sale of the report shall be deposited in the printing revolving fund established in section 8A.345. ~~Requests for print publications shall be handled only upon receipt of postage by the director.~~

Sec. 8. LOCAL GOVERNMENT SETOFF PILOT PROJECT. Notwithstanding any provision of section 8A.504 to the contrary, the department of administrative services may enter into agreements with no more than five political subdivisions of the state to allow the political subdivisions to be eligible to participate in the setoff procedures provided in section 8A.504.

DIVISION II

Sec. 9. DEPARTMENT OF ADMINISTRATIVE SERVICES — E-COMMERCE STUDY — REPORT. It is the intent of the general assembly to encourage the use of electronic transactions with regard to the state's dealings with the citizens of Iowa and other persons. The department of administrative services shall develop recommendations, including proposed legislation, to encourage the use of electronic commerce, including the acceptance of credit card payments, with regard to transactions involving the state. The department shall consult with the state treasurer, state entities currently accepting credit card payments, and any other state entities identified as considering the acceptance of credit card payments when developing the recommendations. The department shall deliver a report to the general assembly by January 20, 2006, including any recommendations, proposed legislation, and other related information, including cost information associated with credit card payments.

Approved April 22, 2005

CHAPTER 53

ADVANCED PRACTICE REGISTERED NURSE COMPACT

H.F. 784

AN ACT to establish an advanced practice registered nurse compact and including a future repeal.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 147.2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

For purposes of this section, a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3 shall be considered to have obtained a license to practice nursing from the department.

Sec. 2. Section 147.5, unnumbered paragraph 2, Code 2005, is amended to read as follows:

This section shall not apply to a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3.

Sec. 3. Section 147.7, unnumbered paragraph 2, Code 2005, is amended to read as follows:

This section shall not apply to a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3. A person licensed in another state and recognized for licensure in this state pursuant to the compact shall, however, maintain a copy of a license issued by the person's home state available for inspection when engaged in the practice of nursing in this state.

Sec. 4. Section 152.6, Code 2005, is amended to read as follows:

152.6 LICENSES — PROFESSIONAL ABBREVIATIONS.

The board may license a natural person to practice as a registered nurse or as a licensed practical nurse. However, only a person currently licensed as a registered nurse in this state may use that title and the abbreviation "RN" after the person's name and only a person currently licensed as a licensed practical nurse in this state may use that title and the abbreviation "LPN" after the person's name. For purposes of this section, "currently licensed" includes persons licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3.

Sec. 5. Section 152.7, unnumbered paragraph 2, Code 2005, is amended to read as follows:

For purposes of licensure pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3, the compact administrator may refuse to accept a change in the qualifications for licensure as a registered nurse or as a licensed practical or vocational nurse by a licensing authority in another state which is a party to the compact which substantially modifies that state's qualifications for licensure in effect on July 1, 2000. A refusal to accept a change in a party state's qualifications for licensure may result in submitting the issue to an arbitration panel or in withdrawal from the compact, at the discretion of the compact administrator.

Sec. 6. Section 152.8, subsections 1 and 2, Code 2005, are amended to read as follows:

1. A license possessed by an applicant from a state which has not adopted the nurse licensure compact contained in section 152E.1 or the advanced practice registered nurse compact contained in section 152E.3 shall be recognized by the board under conditions specified which indicate that the licensee meets all the qualifications required under section 152.7. If a foreign license is recognized, the board may issue a license by endorsement without an examination being required. Recognition shall be based on whether the foreign licensee is qualified to practice nursing. The board may issue a temporary license to a natural person who has completed the requirements of and applied for licensure by endorsement. The board shall determine the length of time a temporary license shall remain effective.

2. A license possessed by an applicant and issued by a state which has adopted the nurse licensure compact contained in section 152E.1 or the advanced practice registered nurse compact contained in section 152E.3 shall be recognized pursuant to the provisions of that section.

Sec. 7. Section 152.10, subsection 2, paragraph d, subparagraph (2), Code 2005, is amended to read as follows:

(2) Having a license to practice nursing as a registered nurse or licensed practical nurse revoked or suspended, or having other disciplinary action taken, by a licensing authority in another state which has adopted the nurse licensure compact contained in section 152E.1 or the

advanced practice registered nurse compact contained in section 152E.3 and which has communicated information relating to such action pursuant to the coordinated licensure information system established by the compact. If the action taken by the licensing authority occurs in a jurisdiction which does not afford the procedural protections of chapter 17A, the licensee may object to the communicated information and shall be afforded the procedural protections of chapter 17A.

Sec. 8. Section 152E.2, unnumbered paragraph 1,¹ Code 2005, is amended to read as follows:

The executive director of the board of nursing, as provided for in section 152.2, shall serve as the compact administrator identified in article VIII, section a, of the nurse licensure compact contained in section 152E.1 and as the compact administrator identified in article VIII, section a, of the advanced practice registered nurse licensure compact contained in section 152E.3.

Sec. 9. NEW SECTION. 152E.3 FORM OF ADVANCED PRACTICE REGISTERED NURSE COMPACT.

The advanced practice registered nurse compact is entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

ARTICLE I — FINDINGS AND DECLARATION OF PURPOSE

- a. The party states find all of the following:
 1. The health and safety of the public are affected by the degree of compliance with advanced practice registered nurse licensure and practice requirements and the effectiveness of enforcement activities related to state advanced practice registered nurse license or authority to practice laws.
 2. Violations of advanced practice registered nurse licensure and practice and other laws regulating the practice of nursing may result in injury or harm to the public.
 3. The expanded mobility of advanced practice registered nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of advanced practice registered nurse licensure and practice requirements.
 4. New practice modalities and technology make compliance with individual state advanced practice registered nurse licensure and practice requirements difficult and complex.
 5. The current system of duplicative advanced practice registered nurse licensure and practice requirements for advanced practice registered nurses practicing in multiple states is cumbersome and redundant to both advanced practice registered nurses and states.
 6. Uniformity of advanced practice registered nurse requirements throughout the states promotes public safety and public health benefits.
 7. Access to advanced practice registered nurse services increases the public's access to health care, particularly in rural and underserved areas.
- b. The general purposes of this compact are to:
 1. Facilitate the states' responsibilities to protect the public's health and safety.
 2. Ensure and encourage the cooperation of party states in the areas of advanced practice registered nurse licensure and practice requirements including promotion of uniform licensure requirements.
 3. Facilitate the exchange of information between party states in the areas of advanced practice registered nurse regulation, investigation, and adverse actions.
 4. Promote compliance with the laws governing advanced practice registered nurse practice in each jurisdiction.
 5. Invest all party states with the authority to hold an advanced practice registered nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.

¹ Section 152E.2 has only one unnumbered paragraph in Code 2005

ARTICLE II — DEFINITIONS

As used in this compact:

- a. “Advanced practice registered nurse” means a nurse anesthetist, nurse practitioner, nurse midwife, or clinical nurse specialist to the extent a party state licenses or grants authority to practice in that advanced practice registered nurse role and title.
- b. “Advanced practice registered nurse licensure and practice requirements” means the regulatory mechanism used by a party state to grant legal authority to practice as an advanced practice registered nurse.
- c. “Advanced practice registered nurse uniform license or authority to practice requirements” means those minimum uniform licensure, education, and examination requirements as agreed to by the compact administrators and adopted by licensing boards for the recognized advanced practice registered nurse role and title.
- d. “Adverse action” means a home or remote state action.
- e. “Alternative program” means a voluntary, nondisciplinary monitoring program approved by a nurse licensing board.
- f. “Coordinated licensure information system” means an integrated process for collecting, storing, and sharing information on advanced practice registered nurse licensure or authority to practice and enforcement activities related to an advanced practice registered nurse license or authority to practice laws, which is administered by a nonprofit organization composed of and controlled by state licensing boards.
- g. “Current significant investigative information” means either of the following:
 1. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the advanced practice registered nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.
 2. Investigative information that indicates that the advanced practice registered nurse represents an immediate threat to public health and safety regardless of whether the advanced practice registered nurse has been notified and had an opportunity to respond.
- h. “Home state” means the party state that is the advanced practice registered nurse’s primary state of residence.
- i. “Home state action” means any administrative, civil, equitable, criminal, or other action permitted by the home state’s laws which is imposed on an advanced practice registered nurse by the home state’s licensing board or other authority, including actions against an individual’s license or authority to practice such as revocation, suspension, probation, or any other action which affects an advanced practice registered nurse’s authorization to practice.
- j. “Licensing board” means a party state’s regulatory body responsible for issuing advanced practice registered nurse licensure or authority to practice.
- k. “Multistate advanced practice privilege” means current authority from a remote state permitting an advanced practice registered nurse to practice in that state in the same role and title as the advanced practice registered nurse is licensed or authorized to practice in the home state to the extent that the remote state laws recognize such advanced practice registered nurse role and title. A party state has the authority, in accordance with existing state due process laws, to take action against the advanced practice registered nurse’s privilege, including revocation, suspension, probation, or any other action that affects an advanced practice registered nurse’s multistate privilege to practice.
- l. “Party state” means any state that has adopted this compact.
- m. “Prescriptive authority” means the legal authority to prescribe medications and devices as defined by party state laws.
- n. “Remote state” means a party state, other than the home state, where either of the following applies:
 1. Where the patient is located at the time advanced practice registered nurse care is provided.

2. In the case of advanced practice registered nurse practice not involving a patient, in such party state where the recipient of advanced practice registered nurse care is located.

o. "Remote state action" means either of the following:

1. Any administrative, civil, equitable, criminal, or other action permitted by a remote state's laws which is imposed on an advanced practice registered nurse by the remote state's licensing board or other authority, including actions against an individual's multistate advanced practice privilege in the remote state.

2. Cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards of remote states.

p. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

q. "State practice laws" means a party state's laws and regulations that govern advanced practice registered nurse practice, define the scope of advanced nursing practice, including prescriptive authority, and create the methods and grounds for imposing discipline. "State practice laws" does not include the requirements necessary to obtain and retain advanced practice registered nurse licensure or authority to practice as an advanced practice registered nurse, except for qualifications or requirements of the home state.

r. "Unencumbered" means that a state has no current disciplinary action against an advanced practice registered nurse's license or authority to practice.

ARTICLE III — GENERAL PROVISIONS AND JURISDICTION

a. All party states shall participate in the nurse licensure compact for registered nurses and licensed practical or vocational nurses in order to enter into the advanced practice registered nurse compact.

b. A state shall not enter the advanced practice registered nurse compact until the state adopts, at a minimum, the advanced practice registered nurse uniform license or authority to practice requirements for each advanced practice registered nurse role and title recognized by the state seeking to enter the advanced practice registered nurse compact.

c. Advanced practice registered nurse license or authority to practice issued by a home state to a resident in that state shall be recognized by each party state as authorizing a multistate advanced practice privilege to the extent that the role and title are recognized by each party state. To obtain or retain advanced practice registered nurse licensure and practice requirements as an advanced practice registered nurse, an applicant must meet the home state's qualifications for authority or renewal of authority as well as all other applicable state laws.

d. The advanced practice registered nurse multistate advanced practice privilege does not include prescriptive authority, and does not affect any requirements imposed by states to grant to an advanced practice registered nurse initial and continuing prescriptive authority according to state practice laws. However, a party state may grant prescriptive authority to an individual on the basis of a multistate advanced practice privilege to the extent permitted by state practice laws.

e. A party state may, in accordance with state due process laws, limit or revoke the multistate advanced practice privilege in the party state and may take any other necessary actions under the party state's applicable laws to protect the health and safety of the party state's citizens. If a party state takes action, the party state shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

f. An advanced practice registered nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is provided. The advanced practice registered nurse practice includes patient care and all advanced nursing practice defined by the party state's practice laws. The advanced practice registered nurse practice subjects an advanced practice registered nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state.

g. Individuals not residing in a party state may apply for an advanced practice registered

nurse license or authority to practice as an advanced practice registered nurse under the laws of a party state. However, the authority to practice granted to these individuals shall not be recognized as granting the privilege to practice as an advanced practice registered nurse in any other party state unless explicitly agreed to by that party state.

ARTICLE IV — APPLICATIONS FOR ADVANCED PRACTICE REGISTERED NURSE LICENSURE OR AUTHORITY TO PRACTICE IN A PARTY STATE

a. Once an application for an advanced practice registered nurse license or authority to practice is submitted, a party state shall ascertain, through the coordinated licensure information system, whether the applicant has held, or is the holder of, a nursing license or authority to practice issued by another state, whether the applicant has had a history of previous disciplinary action by any state, whether an encumbrance exists on any license or authority to practice, and whether any other adverse action by any other state has been taken against a license or authority to practice.

This information may be used in approving or denying an application for an advanced practice registered nurse license or authority to practice.

b. An advanced practice registered nurse in a party state shall hold an advanced practice registered nurse license or authority to practice in only one party state at a time, issued by the home state.

c. An advanced practice registered nurse who intends to change the nurse's primary state of residence may apply for an advanced practice registered nurse license or authority to practice in the new home state in advance of such change. However, a new license or authority to practice shall not be issued by a party state until after an advanced practice registered nurse provides evidence of change in the nurse's primary state of residence satisfactory to the new home state's licensing board.

d. 1. If an advanced practice registered nurse changes the nurse's primary state of residence by moving between two party states, and obtains an advanced practice registered nurse license or authority to practice from the new home state, the advanced practice registered nurse license or authority to practice from the former home state is no longer valid.

2. If an advanced practice registered nurse changes the nurse's primary state of residence by moving from a nonparty state to a party state, and obtains an advanced practice registered nurse license or authority to practice from the new home state, the individual state license issued by the nonparty state is not affected and shall remain in full force if so provided by the laws of the nonparty state.

3. If an advanced practice registered nurse changes the nurse's primary state of residence by moving from a party state to a nonparty state, the advanced practice registered nurse license or authority to practice issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.

ARTICLE V — ADVERSE ACTIONS

In addition to the general provisions described in article III, the following provisions apply:

a. The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions, including the factual and legal basis for such action, if known. The licensing board of a remote state shall also promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.

b. The licensing board of a party state shall have the authority to complete any pending investigations for an advanced practice registered nurse who changes the nurse's primary state of residence during the course of such investigations. It shall also have the authority to take appropriate action and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordi-

nated licensure information system shall promptly notify the new home state of any such actions.

c. A remote state may take adverse action affecting the multistate advanced practice privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the advanced practice registered nurse license or authority to practice issued by the home state.

d. For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.

e. The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action.

f. Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the party state's laws. Party states must require advanced practice registered nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.

g. All home state licensing board disciplinary orders, agreed to or otherwise, which limit the scope of the advanced practice registered nurse's practice or require monitoring of the advanced practice registered nurse as a condition of the order shall include the requirements that the advanced practice registered nurse will limit the nurse's practice to the home state during the pendency of the order. This requirement may allow the advanced practice registered nurse to practice in other party states with prior written authorization from both the home state and party state licensing boards.

ARTICLE VI — ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE LICENSING BOARDS

Notwithstanding any other powers, party state licensing boards shall have the authority to do all of the following:

a. If otherwise permitted by state law, recover from the affected advanced practice registered nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that advanced practice registered nurse.

b. Issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses, or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence is located.

c. Issue cease and desist orders to limit or revoke an advanced practice registered nurse's privilege, license, or authority to practice in the state.

d. Promulgate uniform rules and regulations as provided for in article VIII, section c.

ARTICLE VII — COORDINATED LICENSURE INFORMATION SYSTEM

a. All party states shall participate in a cooperative effort to create a coordinated database of all advanced practice registered nurses. This system shall include information on the advanced practice registered nurse licensure and practice requirements and disciplinary history of each advanced practice registered nurse, as contributed by party states, to assist in the coordination of the advanced practice registered nurse licensure or authority to practice and enforcement efforts.

b. Notwithstanding any other provision of law, all party states' licensing boards shall promptly report adverse actions, actions against multistate advanced practice privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials, to the coordinated licensure information system.

c. Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.

d. Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that shall not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

e. Any personally identifiable information obtained by a party state's licensing board from the coordinated licensure information system shall not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

f. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

g. The compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

ARTICLE VIII — COMPACT ADMINISTRATION AND INTERCHANGE OF INFORMATION

a. The head of the licensing board, or the head's designee, of each party state shall be the administrator of this compact for the head's state.

b. The compact administrator of each party state shall furnish to the compact administrator of each other party state any information and documents including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information to facilitate the administration of this compact.

c. Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of this compact. These uniform rules shall be adopted by party states, under the authority invested under article VI, section d.

ARTICLE IX — IMMUNITY

A party state or the officers or employees or agents of a party state's licensing board who acts in accordance with the provisions of this compact shall not be liable on account of any act or omission in good faith while engaged in the performance of their duties under this compact. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE X — ENTRY INTO FORCE, WITHDRAWAL, AND AMENDMENT

a. This compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this compact by enacting a statute repealing the same, but such withdrawal shall not take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

b. Withdrawal shall not affect the validity or applicability by the licensing boards of states remaining party to the compact of any report of adverse action occurring prior to the withdrawal.

c. This compact shall not be construed to invalidate or prevent any advanced practice regis-

tered nurse licensure or authority to practice agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.

d. This compact may be amended by the party states. An amendment to this compact shall not become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

ARTICLE XI — CONSTRUCTION AND SEVERABILITY

a. This compact shall be liberally construed so as to effectuate the purposes of the compact. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or the applicability of the compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of the compact to any government, agency, person, or circumstance shall not be affected by that action. If this compact shall be held contrary to the constitution of any state which is party to the compact, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

b. 1. In the event party states find a need for settling disputes arising under this compact, the party states may submit the issues in dispute to an arbitration panel which shall be comprised of an individual appointed by the compact administrator in the home state, an individual appointed by the compact administrator in the remote state or states involved, and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.

2. The decision of a majority of the arbitrators shall be final and binding.

Sec. 10. Section 272C.6, subsection 4, unnumbered paragraph 1, Code 2005, is amended to read as follows:

In order to assure a free flow of information for accomplishing the purposes of this section, and notwithstanding section 622.10, all complaint files, investigation files, other investigation reports, and other investigative information in the possession of a licensing board or peer review committee acting under the authority of a licensing board or its employees or agents which relates to licensee discipline are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the licensee and the boards, their employees and agents involved in licensee discipline, and are not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. However, investigative information in the possession of a licensing board or its employees or agents which relates to licensee discipline may be disclosed to appropriate licensing authorities within this state, the appropriate licensing authority in another state, the coordinated licensure information system provided for in the nurse licensure compact contained in section 152E.1 or the advanced practice registered nurse compact contained in section 152E.3, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license. If the investigative information in the possession of a licensing board or its employees or agents indicates a crime has been committed, the information shall be reported to the proper law enforcement agency. However, a final written decision and finding of fact of a licensing board in a disciplinary proceeding, including a decision referred to in section 272C.3, subsection 4, is a public record.

Sec. 11. REPEAL. This Act is repealed effective July 1, 2008.

Approved April 22, 2005